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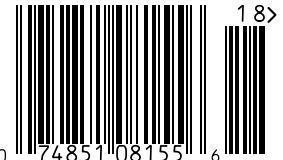
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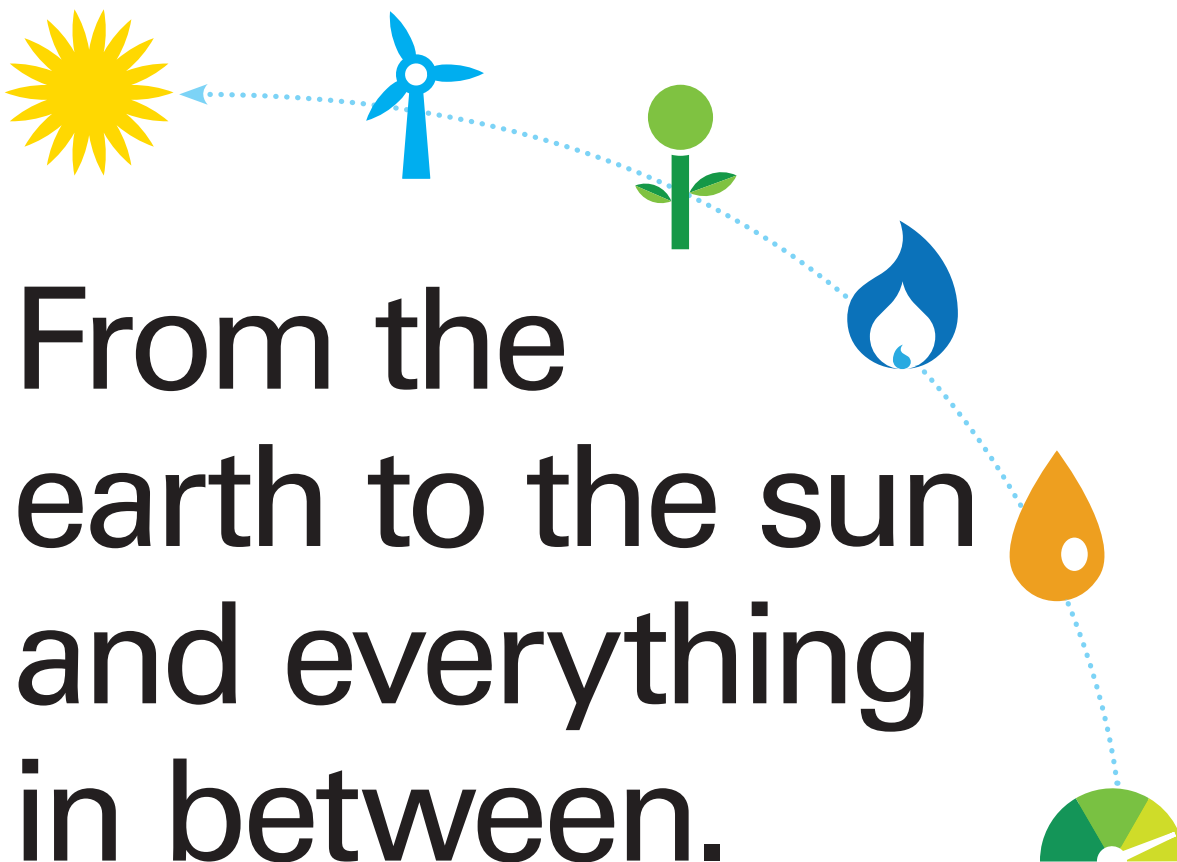
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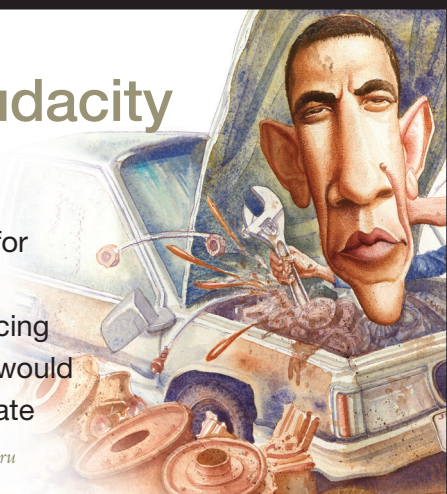


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The Cost of Audacity

Obama's explanation of our economic difficulties fails. Meanwhile, his prescriptions for recovery—such as expanding health-care coverage and placing a cap on carbon emissions—would reduce America's long-term rate of economic growth. *Ramesh Ponnuru*



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Letters



We're Warning You

In "The Week" (April 6), the Editors take issue with the Supreme Court's ruling in *Wyeth v. Levine*. The Court held that when a drug harms a patient, the patient can sue in a state court, even if the drug's maker followed the Food and Drug Administration's guidelines—in other words, FDA guidelines don't "preempt" state-level laws and lawsuits. The Editors also express a desire for a national standard governing warning labels on drugs.

But the case was rightly decided as a legal matter. While Congress has the power to preempt state laws having to do with interstate commerce—a power that the modern Supreme Court has interpreted broadly enough to cover drug labeling—in this instance it declined to do so. We imagine the Court would uphold a labeling law explicitly barring states from setting their own, stricter rules, as it did in the case of a pesticide statute decades ago. But unless such language is in the law, there's nothing to keep a state from legislating on how drugs sold within its borders should be labeled.

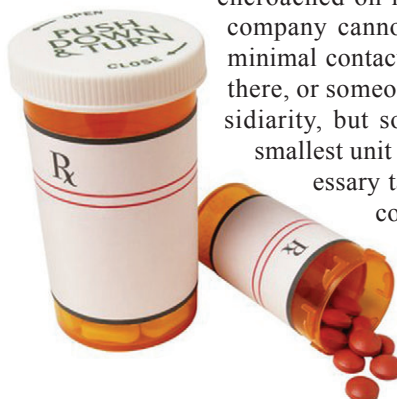
Further, let us wonder why the Editors would ask for a national standard in drug labeling. Vermont might well create a poor, unworkable, and business-unfriendly standard for tort liability, but that's (mainly) Vermont's problem. Neither Wyeth nor any other drug company is required to sell its products there, and the people of the other 49 states are free to reject Vermont's model as they please. Also, who's to say that Washington won't create a poor, unworkable, and business-unfriendly standard? The FDA is already setting a floor for what an adequate warning label is; do we also want the federal government setting the ceiling?

NATIONAL REVIEW typically does a fine job of defending federalism and subsidiarity, making arguments for a smaller federal government and for allocating power close to home, but on this issue the Editors have departed from that practice.

Andrew Fink (uncle)
Whitehall, Mich.

Andrew Fink (nephew)
Ypsilanti, Mich.

THE EDITORS REPLY: We appreciate the kind words and the thoughtful letter, but we disagree. The Finks underestimate the extent to which the states have encroached on national commerce. The pharmaceutical company cannot avoid Vermont tort law if it has even minimal contacts with the state: if it sells other products there, or someone uses its product there. We respect subsidiarity, but sometimes the federal government is the smallest unit of government that can accomplish a necessary task—as in the case of protecting national commerce from the states. Congress, meanwhile, cannot possibly foresee and explicitly bar every creative method a rapacious state might use to undermine its laws, so the court should not require it to have done so.



Letters may be submitted by e-mail to letters@nationalreview.com.

CAPITALISM DIDN'T CAUSE THE CRISIS ...

GOVERNMENT DID.

The conventional wisdom holds that deregulated or unregulated capitalism caused the financial crisis. As usual, the conventional wisdom is wrong.

In the first comprehensive scholarly look at the crisis, 12 economists and political scientists from all parts of the political spectrum agree: government policies caused the financial crisis.

The list of contributory policies is long:

- monetary policy
- tax policy
- the Community Reinvestment Act
- Fannie Mae and Freddie Mac
- state real-estate regulations
- U.S. and international banking regulations
- deposit insurance
- the doctrine of "Too Big to Fail"
- mark-to-market accounting

In short: this crisis was the "perfect storm" of modern, Progressive regulatory government.

In his introduction to the issue, all of the contributory regulations are drawn together by *Critical Review* editor Jeffrey Friedman, who shows that the two deeper problems were "Hayekian": first, the complexity of capitalism; second, the complexity

of the web of regulations that governments have enacted to control capitalism. While the perverse effects of some of these regulations were predicted, nobody—not even the "experts"—could have known how disastrously the regulations would interact with each other. This is why the crisis surprised virtually everyone.

Among the other contributors: Nobel laureate Vernon Smith, with a new theory of the parallels between 2008 and 1929; and John B. Taylor, father of the "Taylor rule" of monetary policy, with a now-famous paper attributing the crisis to Fed policy under Alan Greenspan.

This volume is written by scholars but edited for accessibility to the educated layman. It is the perfect gift for intellectually voracious high-school or college students. While supplies last, bulk orders for classroom use will be accepted at a reduced rate.

CAUSES OF THE CRISIS

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The Week

■ Bo joins the ranks of famous White House hounds: Barney, Checkers, Bill . . .

■ Three Somali pirates found out the hard way that the most dangerous thing in the water is a SEAL: Navy special-operations sharpshooters killed three of the four brigands who had hijacked the *Maersk Alabama* and held its captain hostage. A fourth pirate, who had jumped ship to seek medical attention aboard a nearby U.S. Navy vessel, will be turned over to the lawyers. The pirate episode is a War on Terror in miniature, with the same strange polarity: At one pole, savages avail themselves of the best that American medicine and law have to offer; at the other are those three head shots from U.S. snipers. Somewhere in the middle is politics.

■ President Obama tacked a surprise trip to Iraq on the end of his foreign tour. He was mobbed by star-struck soldiers, which made for stirring images. More important, Obama forthrightly acknowledged what has been accomplished in the war, hailing the troops for what they are doing “to make sure that Iraq is stable, that it is not a safe haven for terrorists, that it is a good neighbor and a good ally.” Obama has taken too long to get out of campaign mode, and to stop slighting Iraq as “Bush’s war.” In his Iraq trip, he finally acknowledged the war as his country’s own.

■ Obama bowed before the Saudi king Abdullah—bowed literally, and obsequiously. The Arab world took notice: Supporters of the dictatorial status quo openly applauded, while would-be reformers murmured, as loudly as was safe. Saudi Arabia is an American ally, yes; it is also a nasty dictatorship. The American president should have manners, yes; but the U.S. is a republic, and one that threw off a monarchy. Our president should not bow before a king: any king. Furthermore, the White House—any White House—should not deny that the president has bowed, when he clearly has. Our columnist Mark Steyn summed things up when he wrote, “So let me see if I understand American protocol in the age of Obama: The First Lady hugs Queen Elizabeth as if she’s some granny at a seniors’ center photo-op, but the President of this republic prostrates himself before King Abdullah as if he’s a subject of the Saudi pseudo-Crown.”

■ Isn’t Obama a little young to be so overcome with regret? On his world tour, the president pronounced himself sorry about American “arrogance” and our national failure to consult adequately with the Danes and Finns before acting in our national interest. Obama told the world he is terribly sorry about Gitmo, the housing market, atom bombs, the securities markets, American Indians, and our national failure to behave with sufficient deference to globalist sensibilities in Brussels—or to sensibilities in Tehran, which are globalist, too. Obama’s political career is moving at warp speed: A few years ago he was an obscure state legislator in Illinois, and now he’s becoming a



Carter-style elder statesman without having been a statesman first.

■ No new president has elicited such different reactions from Republicans and Democrats. The partisan gap in presidential approval is at record levels for this stage of a term. Republicans are chortling that President Obama has failed to fulfill his campaign promise to bring Americans together. Republicans should not take too much comfort from this finding, though. It partly reflects the Republican party’s shrinkage: Obama’s overall approval numbers are respectable, but Republicans are the home of the anti-Obama minority. Polarization is also a predictable byproduct of the sharper ideological definition of the parties. (Hard as it may be for youngsters to believe, in the 1970s there were Republicans who called themselves liberals, and conservative Democrats roamed the country in large numbers.) If Obama has failed to deliver on his promise, it is because the promise was not deliverable in the first place, any more than it was for his predecessor.

■ The Obama administration’s unattractive habit of taking frequent potshots at George W. Bush took a turn for the absurd when Vice President Joe Biden tried to portray himself as an unheeded adviser to the former president. Biden told a CNN interviewer: “I remember President Bush saying to me one time in the Oval Office, ‘Well, Joe,’ he said, ‘I’m a leader.’ And I said: ‘Mr. President, turn and around look behind you. No one’s following.’” A number of Bush officials disputed Biden’s version of events. Karl Rove’s rejoinder was typically piquant: “It didn’t happen. It’s his imagination; it’s a made-up, fictional world.” A

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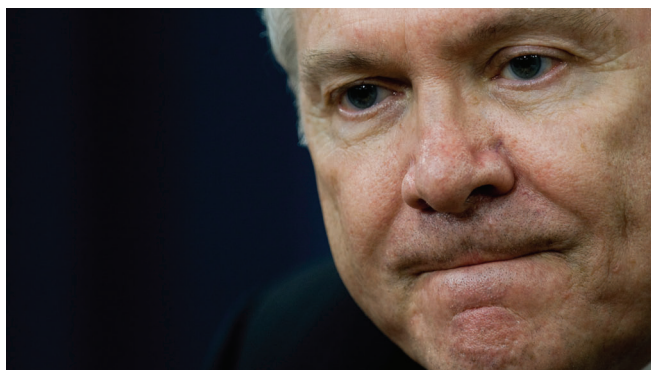
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spokesman for Biden (Jay Carney, formerly of *Time* magazine) said the veep stood by his statement, but declined to provide any details about when or where the alleged exchange occurred. For now, it remains Biden's word against Rove's; but against Biden—he of the plagiarized campaign speech, the “forced” helicopter landing in Afghanistan (due to inclement weather, it turned out), and innumerable other tall tales—we give Rove the benefit of the doubt.

■ Sen. Chuck Schumer recently said: “The world has changed. The old Reagan philosophy that served them well politically from 1980 to about 2004 and 2006 is over. But the hard Right, which still believes when the federal government moves chop off its hands, still believes, you know, traditional values kind of arguments and strong foreign policy, all that is over.” Let us remind the senator that there is another election in 2010, and another in 2012, and yet another in 2014. If his party wants to run in those elections as the champion of “weak foreign policy,” well, Republicans should be happy to have that argument.

■ On April 7, a federal judge overturned the conviction of former Republican senator Ted Stevens of Alaska, citing prosecutorial misconduct. Six Department of Justice lawyers now face a well-deserved probe into their own actions, which may have played a decisive role in last November's elections. The 85-year-old incumbent lost to Democrat Mark Begich by a single percentage point, and he might very well have prevailed but for the conviction, handed down just days before voters cast their ballots. Yet Stevens is hardly vindicated of all wrongdoing. It is still unclear whether he inappropriately accepted more than \$250,000 from Veco Corporation. That uncertainty, along with his infamous advocacy of the “Bridge to Nowhere,” had made him a national symbol for much of what ailed the Republican majority in Congress. He is not missed.



■ Secretary of Defense Robert Gates is the skeleton at the feast. The budgetary problem for practically every other member of Obama's cabinet is how to spend an unprecedented bonanza quickly enough. For Gates, it is how to make do with less—at a time when the nation is still embroiled in two major wars of counterinsurgency, in Iraq and Afghanistan. Given his constraints, Gates has chosen wisely, putting the emphasis on capabilities important to irregular ground warfare. But not every future conflict will look like today's wars. Gates is cheating other priorities, such as developing a sophisticated missile defense and maintaining a Navy big enough to undergird global American power. Gates has done his best dividing

a disgracefully small pie. (For more details, read Mario Loyola's article on page 27.)

■ Is President Obama really committed to pushing for an amnesty and a guest-worker program in the middle of a recession, when resistance is likely to be at its peak, business isn't hiring, and illegal immigrants are leaving the country on their own? Are congressional Democrats really eager to have this fight? It may be that Obama is just talking a big game to placate Hispanic groups, but opponents of amnesty had best keep their powder dry.

■ Congress is considering whether health-care reform should include a “public option” that would allow all Americans to sign up for government-provided insurance. Proponents of this idea cite the low administrative costs of Medicare and Medicaid. But those government programs have low administrative costs in part because they do a very poor job of policing fraud, and their price tags have ballooned even though they push some of their costs to the private sector. (The government negotiates low reimbursement rates with doctors and hospitals, which then make up the difference by overcharging private insurers and their customers.) A “public option” will bring the explosive cost pressures of the existing federal programs to a larger share of the budget while shrinking the private sector they have exploited.

■ President Obama hopes to stabilize the U.S. housing market, and thereby the broader economy, by helping struggling homeowners renegotiate their mortgages on more favorable terms. (“Helping” here means coercing the banks to go along with it.) The shortcomings of this proposal are several and acute, but the most important is that evidence suggests it will not work. Half of the mortgages that were modified in the first quarter of 2008, for example, were in default again within six months. An April 8 report from the Boston Federal Reserve supplements those findings and identifies negative equity as the main factor in mortgage defaults, which makes sense: Homeowners with equity in their homes can sell them in case of severe financial distress, but those with negative equity have no reason to sell, and so default. The government has spent years giving mortgage-lenders incentives to reduce down payments and take their chances on borrowers with thinner finances. The result: more homeownership, but less equity on the part of homeowners—with predictable consequences during a downturn. Fannie and Freddie have recently raised fees for borrowers with smaller down payments, but the realtors' lobby is zealously against these increases. Since the mortgage giants are political enterprises rather than businesses, the realtors will probably prevail. The sorry record suggests that we need less, not more, federal micromanagement of home lending.

■ In 2008, the Supreme Court manufactured a constitutional right for enemy combatants in Guantanamo Bay to challenge their detention in court. Critics warned that once the Court abandoned the boundaries of the U.S. as the outer limit of judicial authority, judges would claim their reach was limitless. Now federal judge John Bates has proven the critics right by extending the same right to military prisoners held in Afghanistan. Since that nation is an active combat zone, the ruling threatens to turn acts of war into crimes and soldiers into cops. If they want to capture enemy combatants rather than kill them, our troops had better

ROBERT GATES: PAUL RICHARDS/AFP

carefully rope off the crime scene, meticulously gather the physical evidence, record witness statements, administer *Miranda* warnings, and make certain a contingent of defense attorneys is present at interrogations. We may be about to see a war fought with due process.

■ At an Ohio State University law symposium, liberal Supreme Court justice Ruth Bader Ginsburg defended the practice of citing foreign law in U.S. court decisions. Her argument sounded innocent enough: U.S. courts are not bound by foreign law, but judges may look to the logic and reasoning (“wisdom,” as she put it) of foreign judges for inspiration. The Supreme Court’s recent foreign citations have borne no resemblance to this description. For example, in ruling it unconstitutional to execute mentally disabled criminals, John Paul Stevens recently wrote, “Within the world community, the . . . death penalty for crimes committed by mentally retarded offenders is overwhelmingly disapproved.” And in *Lawrence v. Texas*, Justice Anthony Kennedy bolstered his case for treating homosexual sodomy as a constitutionally protected activity by noting that the European Court of Human Rights had treated it as a right. Citations of foreign law are, in other words, becoming just another way for the justices to ignore American voters.

■ The Justice Department’s Office of Legal Counsel recently released a report finding that it’s unconstitutional to give congressional representation to the District of Columbia. This conclusion is of course correct, and fairly obvious. Unfortunately, Attorney General Eric Holder didn’t want to listen. When the report came out, he “informally” turned to the deputy solicitor general with a slightly different question: Instead of inquiring whether a law granting D.C. congressional voting rights would be constitutional, he asked whether it could be defended in court. (The answer, of course, was yes.) But at least the bad old days when Republicans “politicized” the Justice Department are over.

■ Last year, Obama indicated a willingness to approach school choice with an open mind: “Let’s see if the experiment works,” he told the *Milwaukee Journal-Sentinel*. On April 3, Obama’s Department



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of Education released new findings on the D.C. Opportunity Scholarship Program, which grants vouchers to about 1,700 low-income students in Washington. The reading scores of participants improved compared with those of their peers. Moreover, parents reported a high degree of satisfaction with their children's schools. This evidence suggests strongly that school choice works—or at least that the D.C. experiment did, and ought to continue. Yet congressional Democrats have voted to eliminate funding for the program following the 2009–10 academic year, and Obama went along with them when he signed the omnibus budget bill. In a just world, none of these characters would be able to speak in public about the nation's poor and vulnerable again.

■ New York governor David Paterson's plan to raise taxes on high earners led Rush Limbaugh to declare his intention to abandon the state. (Limbaugh maintains a residence in New York City, where he occasionally works.) Paterson said he was

happy to hear the news. "If I knew that would be the result," he somewhat thuggishly said, "I would've thought about the taxes earlier." Gov. Rick Perry of Texas said that Limbaugh is "not unlike other people who want to go to a place that's got low taxes and fair regulations and a balanced legal system and a skilled work force. So if he wants to go somewhere where he works hard and keeps more of what he makes, Texas is the place to do that." That Texas will continue to outpace New York economically is a safe bet.

■ Which is not to say that Texas politics is free of anti-market folly. The interior designers' lobby has been on a decades-long campaign to require licenses for their profession—i.e., to organize themselves into a state-sanctioned cartel with the power to exclude competitors from the marketplace. A bill to police the menace of unregulated decorators has been introduced into the Texas legislature, as though the southern reaches of the Lone Star

Romancing the State

FURTHER on in these pages I've offered a modest meditation on Albert Jay Nock. In the course of my research, I looked up Nock's obituary in the *New York Times*. He died on Aug. 19, 1945, and the *Times* ran its remembrance of him the next day (which suggests that it was prepared ahead of time). After a brief squib from the Associated Press announcing his death, the article begins under the subheading "His Dislikes Were Many":

Mr. Nock, an essayist and historian, wrote pithily and often cynically on many subjects. His last book, "Memoirs of a Superfluous Man," an autobiographical study published in 1943, revealed his list of hates to be much longer than his loves, and to include almost everything except classical literature, beer, wine, Chinese food, and one or two other items.

I found this nasty summation of Nock oddly reassuring. Things have not changed much.

One of the least remarked but most constant assumptions of the progressive mind is that dislike for the overweening state marks you as a "hater."

To be sure, there is something to Emerson's observation that "there is always a certain meanness in the argument of conservatism, joined with a certain superiority in its fact." But Emerson was making an observation about an argument, not about the people who made it. Slowly but surely, the dominant liberal culture has made opposition to the expansion of the state the hallmark of a stingy and uncharitable character. Recall Joe Biden's explaining that supporting higher taxes is both a religious obligation and a hallmark of charity. Barack Obama said that paying

higher taxes was neighborly. But Newt Gingrich endured years of "Gingrich Who Stole Christmas" puns for actually wanting to get the government's books in order.

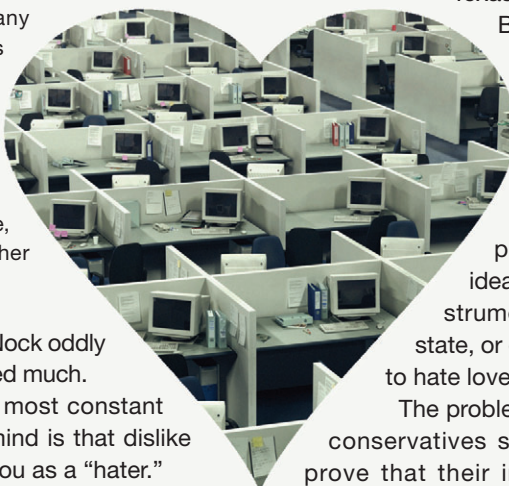
It's as if Ebenezer Scrooge's sin had been to oppose the growth of entitlement spending.

In the back of my head, I had always thought that this liberal tic began with Barry Goldwater, whom Lyndon Johnson had cast as a champion of "hate" in the aftermath of JFK's assassination "deep in the hate of Texas" (as some in the press liked to say).

But, after a moment's reflection, it seemed obvious that this theory can't be true. For if there is one thing that defines the broad spectrum of leftists, from the Stalinist to the progressive to the liberal and even some flavors of "compassionate conservative," it is the idea that the state is, or can be, an instrument of love. Therefore to hate the state, or even its overextension, is somehow to hate love or what statist find loveable.

The problem is that none of this is true. Many conservatives spend too much energy trying to prove that their intellectual opponents have bad motives. Most don't. They have good motives, or at least they are sure that they do. But they think the state can do what it cannot, because they think the state is something it isn't and cannot be. Albert Jay Nock, a happy and contented man who believed that "for life to be fruitful, life must be felt as a joy," understood this and said so plainly and clearly. The *New York Times* did not understand the man; it still doesn't understand the philosophy.

—JONAH GOLDBERG

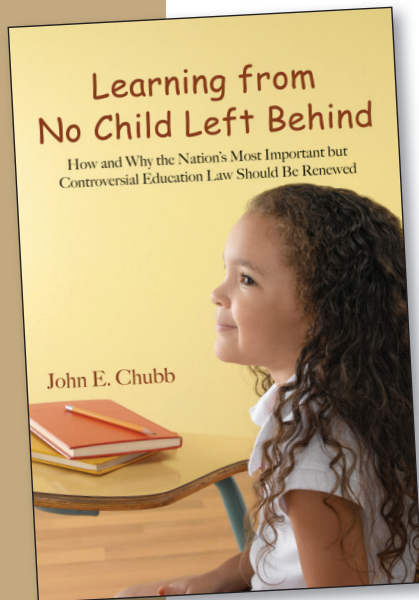


New From Education Next Books

Learning from No Child Left Behind

How and Why the Nation's Most Important but
Controversial Education Law Should Be Renewed

John E. Chubb



John E. Chubb, writing on behalf of the Koret Task Force on K–12 Education, presents a convincing case that, despite the controversy it has ignited, the No Child Left Behind (NCLB) law is making a positive difference and should be renewed. He outlines ten specific lessons and recommendations that identify the strengths and weaknesses of NCLB and offers suggestions for improving the law, building on its current foundation.

Some of the author's suggestions for improvement include the development and implementation of a voluntary system of national academic standards, a user-friendly national database of the accountability status of every school in the nation on the Department of Education's website, expansion of school choice, broadening the tested curriculum to include science and social studies, better teacher incentives, and other key proposals.

John E. Chubb is a distinguished visiting fellow at the Hoover Institution, a member of its Task Force on K–12 Education, and chief development officer of Edison Learning, which he helped found in 1992. He has authored numerous studies of student achievement and education reform, including *Liberating Learning* in 2009.

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State were being ravaged by unfashionable floral wallpaper rather than Mexican narcotics syndicates. This effort deserves both resistance and ridicule, but one can hardly blame the lamps-and-rugs mafia: Furniture movers, bug exterminators, credit-rating agencies, hairdressers, social workers, lawyers, and other competition-averse interests have been using licensure to discourage or eliminate competitors for decades. Absurd as it is, 23 states, the District of Columbia, and Puerto Rico already require the licensing or registration of interior designers. Do these drapes match our oligopoly?

■ Kim Jong Il, the mini-Mao of North Korea, is very pleased that his scientists and technicians “with their own wisdom and technology” have successfully developed and fired a three-stage missile. And well he might be. The missile flew over Japan and

judged UNESCO sufficiently chastened and reformed to merit an American rejoining. Obama should have let the clock run at least another decade.

■ Black American political figures have long had a romance with Fidel Castro and the Communist dictatorship on Cuba. There are reasons for this, but no excuses. In 1960, when Castro visited the U.N. in New York, he showily decamped from a plush midtown hotel and went to the Hotel Theresa, up in Harlem. And he has always talked a good game about race. When prominent black Americans travel to Havana, he delights in showing them his MLK Center. And they always ooh and ah. Recently, three congressmen met with Castro. Rep. Laura Richardson (D., Calif.) said, “He looked right into my eyes, and he said, ‘How can we help you? How can we help President Obama?’” Rep. Bobby

In its three-year existence, the U.N. Human Rights Council has held ten regular sessions on human rights worldwide and five special sessions to condemn Israel.

has the potential to deliver a North Korean nuclear bomb to the west coast of the United States. The alarm in Japan and of course South Korea is immense. Already three years ago, confronted by North Korea’s underground testing of its nuclear weapon, the United Nations decreed military and financial sanctions on that rogue country. These have not worked. Instead, China and Russia, the two powers protecting North Korea for realpolitik motives of their own, inveigled the United States, Japan, and South Korea into talks that have dragged the whole issue into the limbo of international diplomacy. This time, the U.N. Security Council might have passed a resolution condemning North Korea, and enlarging and then enforcing sanctions. Instead, again under pressure from China and Russia, it has merely issued a statement of condemnation. Susan Rice, the U.S. ambassador to the U.N., claims that the statement is “legally binding” and that sanctions and meaningful talks are at last for real. Prospective and eager clients for this missile include Iran, Syria, Hamas, and Hezbollah, so the prevention of nuclear proliferation in reality remains a matter of wishful thinking.

■ For years, the U.N. Human Rights Commission was dominated by the worst human-rights offenders in the world: China, Cuba, Sudan, Zimbabwe, Saudi Arabia—everybody. They spent most of their time condemning Israel, which is probably the favorite sport of the U.N. In 2006, the Human Rights Commission changed its name: to the Human Rights Council. But it did not change its spots. In its three-year existence, the Human Rights Council has held ten regular sessions on human rights worldwide and five special sessions to condemn Israel. Israel is the only nation barred from participation in the council. The Bush administration washed its hands of the council, saying that the United States would do nothing to legitimize it, and that American taxpayers would not fund it. The Obama administration will now reverse this decision. Its argument is that we will improve the panel “from within.” But there is a time for principled shunning—as Reagan knew, when he withdrew from UNESCO. And, 20 years later, President Bush

Rush (D., Ill.) reported, “In my household, I told Castro, he is known as the ultimate survivor.” But how many of his prisoners survive the hell that is inflicted on them? Many of those prisoners—the leading dissidents, actually—are black. One of them, Oscar Elías Biscet, was awarded the Presidential Medal of Freedom by George W. Bush. But that is a caring for black people that the likes of Bobby Rush will never understand.

■ Pakistan has its own version of the Taliban and al-Qaeda, and it is all too successful. In the Swat Valley, only a couple of hours by car from the capital, these Islamists have been taking power, beheading local officials, and closing girls’ schools. Tens of thousands of intimidated people have fled. The Pakistani army has proved unwilling to fight. So the last resort of the central government under Pres. Asif Ali Zardari is to buy the Taliban off. Not necessarily a bad idea: All sorts of factions in the Taliban and al-Qaeda have all sorts of leaders, and their personalities determine shifts of power and betrayal of loyalties. Some months ago a deal was struck whereby the Taliban would impose Islamic law in the Swat Valley and in return stop fighting the army, though not disarm. But far from causing splits among the extremists, the concession of sharia has only strengthened them at the expense of moderates. The public flogging of a 17-year-old girl in Swat is an example of sharia horrible enough to have caused a national scandal. Zardari is therefore delaying ratification of the agreement that would in effect hand Swat over to the Taliban. It may be his last chance to save his presidency, and also to avoid a territorial breakup.

■ A crackdown on tax havens was on the agenda of the recent G20 meeting. French president Nicolas Sarkozy believes that the financial crisis justifies action on this front, even though tax havens have had zilch to do with the present financial distress. German leader Angela Merkel is also on the attack. But the campaign against tax havens is worse than a distraction from our real economic woes. The existence of low-tax jurisdictions is a blessing, a check on the rapacity of welfare states. It is a mistake to

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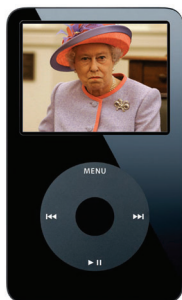
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assume these jurisdictions' privacy protections are responsible for a lot of crime. Australian political scientist Jason Sharman tried to set up fake accounts and had an easier time of it in places such as Britain and the U.S. than in Switzerland or Bermuda. Daniel Mitchell of the Cato Institute points out that we have a national interest in protecting tax havens: From the point of view of most of Europe, we are one.

■ What do you give to the person who has everything—really *everything*, including several palaces, a large stable of racehorses, an art collection worth billions, and a jewelry collection no one has even attempted to value? This is Her Britannic Majesty Elizabeth II we are talking about, any gift giver's ultimate nightmare. Nothing deterred, our president, on his recent London visit, gave the Queen an iPod. For the monarch's listening pleasure, the contraption came pre-loaded with two of Obama's speeches—the inaugural address and the 2004 speech to the Democratic National Convention—and a selection of Broadway tunes from *My Fair Lady* (which takes place in London, you see?) and *Camelot* (about a British royal court—get it?). Nice to know that the little unpleasantnesses of 1775–83 and 1812–15 have been amicably papered over. Good to see Elizabeth—well-nigh an ideal monarch, if you *must* have a monarch—looking so well at 82. Given that the first political briefings she ever had were from Winston Churchill, though, Her Majesty might be forgiven for wondering whether there has not been some falling-off in the imaginative powers of Western leaders these past few decades.



■ The Pet Shop Boys, a British pop-music duo, were recently approached by PETA, the animal-rights organization. Pet shops, whined the activists, represent the commercialization of animal suffering. Pop-music fans should rather be encouraged to adopt unwanted critters from shelters. The Pet Shop Boys should therefore change their name to the Rescue Shelter Boys. While expressing some sympathy for PETA's point of view, the Pet Shop Boys declined the name change. It occurs to us that if that fine 1960s pop group the Animals could be revived, and a partnership formed, the matter might be settled to everyone's satisfaction.

■ Automobile license plates in Saudi Arabia carry three letters of the Arabic alphabet and three numbers. There has been a recent fashion for adding the Latin-alphabet equivalent of the Arabic letters. Some bold spirits have gotten themselves customized plates whose letters, in Latin form, spell out amusing or risqué English words. Now the Saudi authorities are clamping down on this regrettable departure from strict Islamic morality. They have published a list of forbidden three-letter words: BUT, BAD, and BAR, for example, are now proscribed, as of course is SEX. First on the list of Abominable Words, though, for reasons so far not explained, is USA.

■ The Poznan Zoo, in western Poland, has a problem. A local parliamentarian, Michael Grzes, complains: “We didn’t pay 37 million zlotys [\$11.4 million] for the largest elephant house in Europe to have a gay elephant live there.” Zookeepers had been counting on Ninio, an African bush elephant, to help fill the enclosure with the galumphing of little feet, but unfortunately, as Grzes says, “He only liked his buddies and hit the cows with his trunk, and was very disrespectful. . . . We were supposed to have a herd, but as Ninio prefers male friends over females how will he produce offspring?” Poor Ninio may just be suffering from adolescent confusion; he is only 10, and elephants reach sexual maturity at 14. Still, if the Polish pachyderm remains unequal to his appointed task, we have the perfect job for him: official mascot of the Log Cabin Republicans.

■ The *New York Times* editorial board is a great champion of organized labor. Lately, the board has forcefully advocated the Employee Free Choice Act, a law that would achieve the opposite of its name by allowing union organizers to dispense with secret-ballot elections. By contrast, the *New York Times* management lives in the real world of labor disputes. Faced with serious money problems at the *Times*-owned *Boston Globe*, the *Times* management threatened to shut down the *Globe* in order to make its recalcitrant unions show some flexibility and give up lifetime job guarantees, among other unrealistic benefits. The decline of newspapers is a good example of how hypertrophied unionism can impede an industry from adapting to changing economic realities. The *Times* editorial board's obdurate support for unionism is a good example of how impervious its ideology is to the facts.

■ A Colorado jury recently found that Ward Churchill, a tenured professor at the University of Colorado, had been improperly fired. Churchill sparked a nationwide controversy with his remarks after 9/11: specifically those in an essay, “Some People Push Back: On the Justice of Roosting Chickens,” that blamed America for the attacks and called those working at the World Trade Center “little Eichmanns.” This caused Churchill's work to receive sudden scrutiny, which unearthed instances of plagiarism and led to accusations that Churchill had lied in claiming to be an American Indian. Even though the jury found that Churchill was improperly fired, it awarded him only a dollar in damages. At issue in the case was whether he was fired due to his shoddy scholarship or due to the political controversy. Academics of all stripes, conservatives among them, said correctly that political controversy is no grounds to fire a tenured professor. A statement by the National Association of Scholars pointed out the real problem, which is that Churchill's professionalism wasn't questioned anytime before the controversy: “The outcome of the Churchill trial is unfortunate, but it was a trial that in a better academic world would never have occurred. The best point at which to protect professionalism is not career exit, but career entrance and stage-by-stage thereafter.”

■ “It is a truth universally acknowledged that a zombie in possession of brains must be in want of more brains.” Thus the opening sentence of a new bestseller by Los Angeles novelist Seth Grahame-Smith. With blithe disrespect for a great literary classic, Mr. Grahame-Smith has rewritten *Pride and Prejudice* to include zombies. The Bennet sisters, armed with martial-arts

skills, struggle to free their country district from a plague of the undead. The author is no mere opportunist: He has literary *theory* to support his project. “The people in Austen’s books are kind of like zombies,” he explains. “They live in this bubble of privilege.” Yes, yes, and no doubt they feed on the brains of the poor while adding up their investment profits from the slave trade. The past, you know, was a continuous vista of oppression and injustice—this needs to be exposed! Come to think of it, weren’t the March sisters of *Little Women* kind of like malevolent space aliens? Don’t the townsfolk in *Tom Sawyer* remind you of a pack of werewolves? No? Then plainly you need a refresher course in literary theory. Next up: *Moby Dick* with vampires. Opening sentence: “Call me Ishmael as I sink my fangs into your throat.”

■ The greatest service President Obama has rendered the nation thus far came when he hired the actor Kal Penn as associate director of the White House Office of Public Liaison. No more Harold and Kumar movies! Let joy be unconfined. Penn, who is of Gujarati descent, has long decried the typecasting of brown-skinned actors in a handful of narrowly defined, stereotypically “Asian” roles. He must be relieved to join the diverse and egalitarian Obama administration—where his job will be to “reach out to Asian-American audiences.”

■ Madonna is the pop star known as “the Material Girl.” But she has other values than materialism. She has two biological children and one son adopted from Malawi. She has sought to adopt a second child from Malawi—not a spanking-new infant but a four-year-old girl who lives in an orphanage. The older the child, the less attractive it is to would-be adoptive parents, usually. A Malawian court has denied Madonna’s second adoption. It said that Madonna did not meet some requirement. Much of the world applauded—the same part of the world that had jeered Madonna’s attempt to adopt the girl, whose name is Mercy James. Many of Madonna’s critics raised the usual cries of “colonialism,” “imperialism,” “racism,” and the other isms they could think of. They also said that Madonna had tried to use her fame to “circumvent” the Malawian adoption process. Well, what’s wrong with that? Plenty of orphans could use the circumvention of bureaucracy.

PUBLIC POLICY

Marriage and Civilization

ONE of the great coups of the movement for same-sex marriage has been to plant the premise that it represents the inevitable future. This sense has inhibited even some who accept that marriage is by nature the union of a man and a woman. They fear that throwing themselves into the cause of opposing it is futile—worse, that it will call down the judgment of history that they were bigots.

Yet a majority of Americans continue to oppose same-sex marriage. Support for it has certainly increased over the last 15 years, but the assumption that we can predict the future in which same-sex marriage is uncontroversial by drawing a straight line from this trend is unwarranted. Even among young voters, a majority of whom support same-sex marriage, that majority is hardly overwhelming.

Our guess is that if the federal judiciary does not intervene to

impose same-sex marriage on the entire country, we are not going to see it triumph from coast to coast. Rather, we will for some time have a patchwork of laws. The division will not be so much between socially liberal and socially conservative states as between those states where voters can amend their state constitutions easily and those where they cannot. Thus same-sex marriage is likely to stay the law of the land in Massachusetts, Iowa, Vermont, and Connecticut, and perhaps also in New Hampshire.

In two of those states, at least, democratic procedure is now being respected. Vermont has chosen to recognize same-sex marriages legislatively, and New Hampshire may do so. While free from the taint of lawlessness, these decisions seem to us unwise. Few social goods will come from recognizing same-sex couples as married. Some practical benefits may accrue to the couples, but most of them could easily be realized without changing marriage laws. One still sometimes hears people make the allegedly “conservative” case that same-sex marriage will reduce promiscuity and encourage commitment among homosexuals. This prospect seems improbable: Where governments have recognized same-sex marriages and civil unions, this recognition does not appear to have had any noticeable effect in this respect. In any case, the encouragement of commitment among homosexuals is simply not as important a goal as the encouragement of lasting heterosexual bonds.

Which brings us to the question of equality. Same-sex couples want their unions recognized by governments in large part as a symbolic affirmation of their equivalence, at least for public purposes, with traditional married couples. As individuals, of course, homosexuals are the equal of any other citizens in their rights to vote, own guns, speak freely, and so forth. But making them (or anyone else) feel valued is not a legitimate task of public policy; and their sexual relationships do not further the purposes for which governments should recognize marriage.

Both as a social institution and as a public policy, marriage exists to foster connections between heterosexual sex and the rearing of children within stable households. It is a non-coercive way to channel sexual desire into civilized patterns of living—and not just any sexual desire, but desire of the type that regularly produces children. State recognition of the marital relationship does not imply devaluation of any other type of relationship, whether friendship or brotherhood or even same-sex romantic attachments. Governments can rightly take all kinds of steps that enable people to form, and prosper in, any of these relationships. They can make it possible for them to go about their lives in peace, and make it easier for them to establish the contractual arrangements that help with running a household. In none of those cases, however, is it necessary for the government to recognize the friendship or sexual relationship as such.

State recognition of same-sex sexual relationships singles out one kind of non-marital relationship and treats it as though it were marital, and it does this for no good reason. No, we do not expect marriage rates to plummet and illegitimacy rates to skyrocket in these jurisdictions over the next decade. But to the extent same-sex marriage is normalized here, it will be harder for American

EDITOR’S NOTE: The next issue of NATIONAL REVIEW
will appear in three weeks.

culture and law to connect marriage and parenthood. That it has already gotten harder over the last few decades is no answer to this concern. In foisting same-sex marriage on Iowa, the state's supreme court opined in a footnote that the idea that it is best for children to have mothers and fathers married to each other is based merely on "stereotype."

If worse comes to worst, and the federal courts sweep aside the marriage laws that most Americans still want, then decades from now traditionalists should be ready to brandish that footnote and explain to generations yet unborn: That is why we resisted.

FOREIGN POLICY

The Innocent Abroad

DURING a busy week overseas, President Obama attended three major summits—of the G20 industrial countries, NATO, and the European Union—and met with the leaders of Russia, China, India, Turkey, and the main European nations. On a personal level, the trip was a triumph. Everywhere Obama went, he was greeted by diverse crowds of cheering people: eager young Europeans, curious Turks, and proud American soldiers. He received rock-star treatment even from his fellow leaders; one admitted off the record that "we all want to be photographed with him." The traveling Washington press corps was adulatory as usual, even though it had to report the president's missed political opportunities.

Obama's European tour came at a time when the relatively stable, American-dominated post-Cold War international order is being undermined by many problems: the international financial

crisis, the rise of China and India, the aggressive ambitions of a nationalist Russia, and the continuing impact of jihadism. Each summit dealt with different aspects of these interrelated problems: The G20 hoped to respond to the financial crisis and its accompanying economic recession, NATO to craft a military response to Islamist jihad and Russian adventurism, and the EU to find common diplomatic ground among the Western nations on all these issues.

Of the G20 summit, in London, Obama said mildly: "I think it went okay." In fact the G20 rejected his main policy proposal, for a collective international stimulus. We think the summit went okay for precisely that reason—and because it also rejected French president Nicolas Sarkozy's proposal for an unaccountable global financial regulator. But although the G20's dismissal of both proposals lifted markets temporarily, it left the financial-cum-economic crisis still rumbling ominously along under the surface. More needs to be done to restore confidence.

As summit succeeded summit, the president did progressively less okay. The central issue at the Strasbourg summit of NATO was Afghanistan. All 28 NATO countries have signed on to the Afghan mission as vital, but only Canada, Britain, and the U.S. have sent significant numbers of fighting troops. The president had to mime gratitude for a European promise of an extra 5,000 troops, all of them non-combat. With European defense spending averaging just 1 percent of GDP, what Obama encountered in Strasbourg was a mixture of pacifism and free-riding. If this continues unabated, it will inevitably weaken military and diplomatic ties across the Atlantic—adding strategic fears to economic nervousness. That will be very much less than okay.

Obama's presence at the EU-U.S. summit in Prague was meant to show that America wants a strong, integrated Europe as a partner in global affairs. That wish depends, however, on Europe's reaching agreement within itself, and it soon became clear that no such agreement exists on the two central issues that determine all other matters—Turkey and Russia. On Russia, Europe's western half is mainly interested in an uninterrupted supply of Russian energy, while the post-Soviet east wants a secure independence for countries such as Ukraine and Georgia. On whether to grant Turkey full EU membership, Europe is divided between (a) France and Germany, which fear "free movement of labor" for 70 million Turkish Muslims, and (b) Britain and the EU Commission, which fear that rejection would drive Turkey away from the West and into Islamist adventures.

Obama leans towards France and Germany on the Russia question; he wants to reset Russo-American relations. He supports Britain on Turkish EU membership; in Prague he called for Turkey's admittance in order to "anchor" it in Europe (and, sotto voce, to halt any potential drift to Islamism). The suggestion was immediately rejected by Sarkozy.

Because Obama is uncomfortable with the frank exercise of American leadership, he can do little about these growing problems except make somewhat pleading speeches. Yet the blunt truth—which America's liberal foreign-policy establishment cannot face—is that Europe is incapable of solving them on its own. The EU, which prizes consensus above all, is too evenly and bitterly divided on Russia and Turkey. So if President Obama can realize that leadership does not imply bossiness, and that cooperation does not require self-abasement, he can help Europe recover while restoring America to its traditional guiding role.



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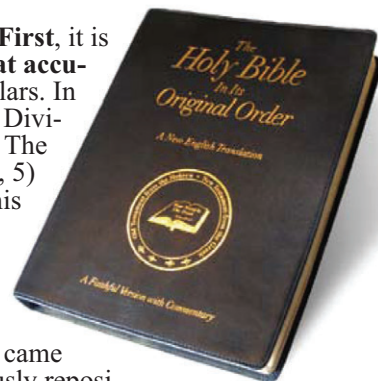
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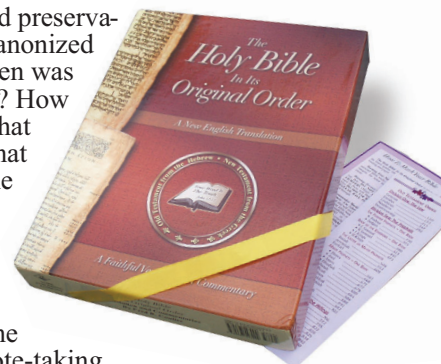
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The Cost of Audacity

Obamanomics means less growth

BY RAMESH PONNURU

ADDRESSING Congress in February, President Obama argued that the recession was no reason to hold off on his signature initiatives. It was, instead, all the more reason to act on them.

"The fact is, our economy did not fall into decline overnight," said the president. "Nor did all of our problems begin when the housing market collapsed or the stock market sank. We have known for decades that our survival depends on finding new sources of energy. Yet we import more oil today than ever before. The cost of health care eats up more and more of our savings each year, yet we keep delaying reform. Our children will compete for jobs in a global economy that too many of our schools do not prepare them for."

The good news he presented was that by finally taking on these challenges, America would "build a new foundation for lasting prosperity." He added, "Now is the time to . . . invest in areas like energy, health care, and education that will grow our economy." Not every lawmaker cheered, but none of them did the appropriate thing and laughed. It would be a remarkable coincidence if the appropriate

response to the economic circumstances of 2009 happened to replicate the long-standing wish list of liberal activists.

In truth, Obama's argument is, not to put too fine a point on it, absurd. European countries that have caps on carbon emissions and national health insurance have hardly been immune to the financial crisis. Some of them have suffered more than the U.S. And while Obama's explanation of our economic difficulties fails, his prescriptions would reduce America's long-term rate of economic growth.

Start with health care. Obama said that its "crushing cost" is "is one of the major reasons why small businesses close their doors and corporations ship jobs overseas." Many businessmen have been persuaded that health-care reform would improve their bottom lines, which is one reason that the administration is optimistic it can get legislation passed this year. In the popular press it is common to run across claims that companies based in the U.S. are at a disadvantage because of health-care costs.

The Congressional Budget Office, run by Democrats since 2007, recently explained why this reasoning is fallacious.

Health-care economists generally agree that companies' health-care expenses come out of wages rather than profits. That's what you would expect when a competitive labor market determines total compensation, however that compensation is divided between wages and benefits. "As a result," the CBO concludes, "the costs of providing health insurance to their workers are not a source of competitive disadvantage for U.S.-based firms." If employers paid less in health-care costs, they would pay more in wages.

It is true that most people would consider rising wages part of the definition of a strong economy. But cost control is taking a back seat to expanding coverage in the administration's plans, as well as those of Congress. Cost control may be what Obama stresses, but expanded coverage is what pulls heartstrings. It is also politically easier to achieve: Cost control in a government-centered system would require rationing, which is not popular.

The administration claims that as it expands coverage, it will control costs by using the federal government's bargaining power as a purchaser of health care to drive prices down. Medicare has used this strategy for decades. The results: As Medicare spending keeps growing, costs are shifted to the private sector in the form of higher insurance premiums. Philip Klein, a reporter at *The American Spectator*, recently asked Obama domestic-policy chief Melody Barnes to name a government that had saved money by expanding coverage. She had no answer.

Even more outlandish from an economic standpoint than Obama's proposals for health-care reform is his energy plan—specifically, his assertion that placing a cap on carbon emissions will benefit the economy. Last year the Energy Information Administration, a division of the Department of Energy, estimated that an emissions-cap bill would cost the economy \$444 billion through 2030—and that estimate is based on heroic assumptions. (For example, that "key low-emissions technologies, including nuclear, fossil with carbon capture and sequestration . . . and various renewables, are developed and deployed in a time-frame consistent with the emissions reduction requirements without encountering any major obstacles.") With other assumptions, the cost is \$1.3 trillion.

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would do, would necessarily decrease economic output. The argument for this legislation is that it would avert the costs associated with global warming—that is, it would help us avoid worse economic damage. But this net benefit may be illusory. In these pages, Jim Manzi, relying on the work of the United Nations’ Intergovernmental Panel on Climate Change and of Yale professor William Nordhaus (who is respected on all sides of the global-warming debate), has concluded that a worldwide program to reduce carbon emissions that was perfectly designed and implemented could be expected to yield a net benefit of “about 0.17 percent of the present value of global GDP over the next several centuries.” Most of that net benefit would not accrue to Americans. Assume that the program would not

workforces to unionize without a secret-ballot vote of the employees. In an analysis of Canadian unionization rates with and without secret ballots, economist Susan Johnson has found that dispensing with secret ballots does indeed increase the success rate of unionization drives. But is larger union membership good for the economy? Lawrence Summers, the head of Obama’s National Economic Council, fingered unionization as a “cause of long-term unemployment” when he was an academic. Economists Harold Cole and Lee Ohanian argue that pro-union labor-law reforms made the Great Depression worse.

Obama also intends to raise both federal spending and federal taxes. In the short run, spending may stimulate the economy, particularly in a recession. Much of

him to go for additional tax increases.) While those rates can be compatible with robust economic growth, they make it less robust than it could be. The drag will be worse since Obama plans to use the added revenue to finance new spending rather than to reduce the deficit.

He also creates new tax credits that are unlikely to have any long-term stimulative effect. This may encourage some poor people to work more, but the credits are phased out as their beneficiaries gain income. Work effort may fall modestly over that phase-out range.

Then there’s trade. The last two presidents, one from each party, made moves to liberalize trade—dramatically, in the case of Bill Clinton. Obama appears to have little interest in passing new trade agreements, and even less leverage with

Most of the initiatives that Obama has touted as being key to an **economic recovery** would have either no effect or a negative one.

be perfect, perhaps because of side deals needed to keep coal-country senators or 2.5 billion Asians on board, and even that minuscule gain disappears.

It is a little harder to analyze the economic effects of Obama’s planned education reforms, because they are the least fleshed-out of his three big initiatives. Obama’s health and energy plans really would be transformative, for good and ill, but his education agenda, as it has been described so far, is simply more of what we already have: additional money, plus unspecified reforms. The likelihood that Obama’s policies will improve K–12 education enough to have a measurable economic impact seems slight. Even after the No Child Left Behind Act, primary education remains a decentralized enterprise in which Washington has limited influence. His expansion of college funding will not increase the country’s skill level much, both because universities will simply raise tuition to absorb the extra money and because a larger number of diplomas does not necessarily mean a larger amount of learning.

Other items on the president’s agenda are no more promising. Obama wants to sign the Employee Free Choice Act to promote unionization. The bill would, among other things, make it possible for

the debate over the stimulus concerned that question. But Obama has long-term spending plans as well.

Over the last 40 years, federal spending has amounted to, on average, 20.7 percent of the economy. The Congressional Budget Office estimates that by 2019, even with no major changes, that percentage will rise to 21.3 because of the aging of the population, rising health costs, and other factors. It further estimates that Obama’s agenda would boost it to 24.5. Kevin Hassett, the director of economic-policy studies at the American Enterprise Institute and a NATIONAL REVIEW contributor, notes that “there is a really well-established literature on spending [that says that] it decreases growth in the long run.” If the government’s share of the economy rises by ten points—say from 20 to 30—then growth drops 1 percentage point a year.

Obama wants to reverse Bush’s tax cuts for high incomes and capital gains, and partly reverse his tax cut for dividends. The top income-tax rate would thus revert to the level in effect during most of the Clinton administration. (It will be higher than that, however, if Obama follows through on his campaign pledge of raising upper-income taxes to address the Social Security shortfall, or if his spending leads

Congress should he wish to do so. So nobody should expect a reduction of trade barriers that would boost the economy.

If the latest version of Obama’s financial-industry rescue plan works—and it is the least ideologically driven element of his domestic agenda—then the president will deserve credit for strengthening the economy. But most of the initiatives that he has touted as being key to an economic recovery would have either no effect or a negative one.

The president has repeatedly promised to “save or create” 2.5 million jobs. That pledge has come in for criticism from conservatives, who note that as long as the country still has at least 2.5 million jobs at the end of Obama’s term, it will be impossible to prove him wrong. Obama deserves a little sympathy for hedging his bets, since his policies will not determine the direction of the economy by themselves. Natural disasters, Federal Reserve actions, and technological revolutions can make good presidential policies seem mistaken and foolish policies seem wise. We cannot say with any confidence that the economy will be weaker after Obama than it was before him. But there is reason to think that Americans will be poorer than they would have been without him.

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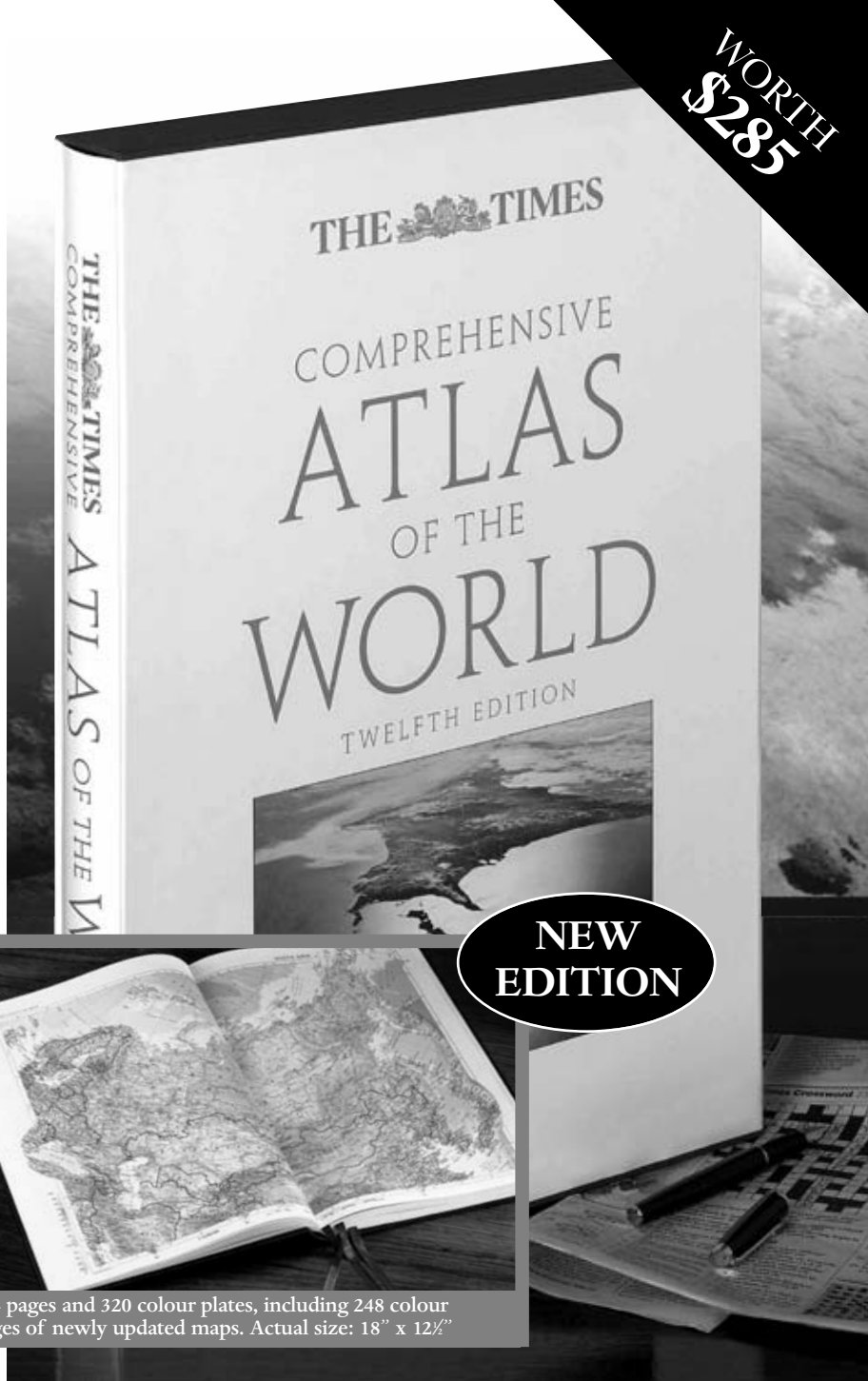
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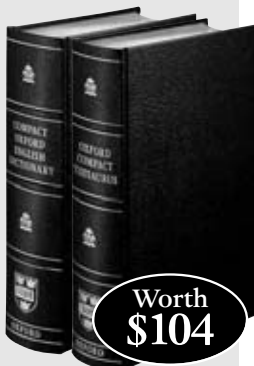


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*There is much that's Right in Europe's
thinking on the financial crisis*

BY KEVIN D. WILLIAMSON

PRES. NICOLAS SARKOZY desires to create a new global finance cop, or *gendarme*—this enforcer would speak with a Continental accent. At the G20 summit, Sarkozy even threatened to walk out over this demand. American conservatives, jealous of sovereignty and rightly skeptical of Sarkozy's poking his Gallic beak into domestic affairs, have greeted these Euro-overtures with hostility.

Conservatives ought to take a second look: We may not want to hire Sarko's sheriff, but we should borrow a few bullets from his gun. While the U.S. is busy quasi-nationalizing everything from AIG to GM, the ideas moving Europe are, in no small part, more market-oriented and more sensible than much of what is currently under discussion in Washington, and conservatives ought not to let an immature Europhobia prevent us from incorporating the best thinking into our own reform agenda. Step away from the freedom fries and shake hands with Jacques de Larosière.

Larosière is a French treasury official, a former managing director of the International Monetary Fund who became president of the London-based European Bank for Reconstruction and Development when that institution was mired in financial scandal—a perfect Eurocrat résumé. But his group's recommendations to the European Commission bear consideration—and they do not go so far as Sarkozy and call for a single global regulator (or even a single European regulator), nor do they imply the need for one. The Larosière recommendations draw an important distinction between *regulation* and *oversight*, the latter understood here as the gathering and dissemination of critical information about deep risks in the financial system.

It bears repeating that on the subject of the financial crisis, the United States is, at

present, to the left of Europe, meaning Sarkozy, Angela Merkel, and the broad consensus they represent. It was the United States that pressed the G20 for a \$1 trillion global stimulus spending spree, and it was the Europeans who vetoed it. If the Larosière report and Sarkozy's endorsement of its recommendations are any indication, the Europeans are at present far more market-friendly and less ideological than their counterparts in Washington: Larosière concentrates on misaligned incentives, flaws in the credit-rating agencies' methodologies, the lack of sufficient long-term data to support risk models, the unhealthy pro-cyclical effects of mark-to-market and other accounting rules, and the like. Far from advocating Euro-statism, Larosière argues that excessive regulation should be avoided because "it slows down financial innovation and thereby undermines economic growth in the wider economy."

The panel's recommendations are less concerned with new police powers than with information-sharing and disclosure protocols. And the biggest regulatory stick in its proposed arsenal is one that needs swinging on both sides of the Atlantic: bringing accountability to the cartel of government-recognized credit-rating agencies—Moody's, Standard & Poor's, and Fitch—which the report rightly describes as "oligopolistic."

The Europeans' hostile attention to the credit-rating agencies is particularly timely. Known as NRSROs—that's Nationally Recognized Statistical Rating Organizations—they constitute a cushy little cartel with which banks and insurance companies are obliged, by law, to do business: Banks have to hold AAA-rated securities, and it's not Triple-A unless an NRSRO says it is. The general impression on Wall Street is that the SEC has been lax to the point of narcolepsy when it comes to the credit agencies: None has ever lost its NRSRO status, and if any proceeding is under way against one of them (the SEC won't say), it hasn't reached the point of a public inquiry. The agencies themselves are the stuff of B-movie villainy: In one e-mail message, an executive describes a set of investments as a "monster" and concludes, "Let's hope we are all wealthy and retired by the time this house of cards falters." Then he adds a smiley face. The Europeans propose to make the credit-rating agencies' legal status performance-based. The SEC is

skeptical of the proposal. Conservatives should press the issue.

The Europeans' diagnosis of the financial crisis is persuasive, if over-interested in assigning special blame to *les anglosaxons*: U.S. monetary authorities kept interest rates too low for too long because inflation was showing up in the one place where it is welcome: in asset prices. If the price of gasoline doubles, there's a whole Wagner opera of angst. But housing prices doubled between January 2000 and November 2005, and then climbed another 13 percent by June 2006, and there was no howling, no angry congressional hearing—there was celebration. With real estate booming, the price of real-estate-backed securities boomed in echo. The Larosière report, unlike most members of Congress, forthrightly acknowledges that political meddling and tax-code social engineering have deeply distorted the housing market, expanding homeownership beyond its natural limitations and driving prices artificially higher. But prices do move both ways—eventually.

The global context for the collapse of the U.S. housing bubble was pretty hairy: Innovations in finance had radically expanded the global volume of credit, recent booms had given governments unrealistic expectations for future growth, and strategically critical economies, such as China's and Saudi Arabia's, had pegged their currencies to the dollar, thereby importing the Fed's loosey-goosey money trouble as they exported sneakers and crude oil to the United States. It didn't take much to set fire to this kindling: Inflation started seeping out of the U.S. real-estate market into the rest of the economy, the Fed hiked rates to put on the brakes, and everybody from Wall Street to Shanghai found out the hard way that those subprime borrowers weren't going to make their higher house payments. There were failures across the range of private and regulatory players, an inverse "wisdom of crowds"—because, as Despair, Inc. puts it, none of us is as dumb as all of us.

There's no cure for stupid, but information helps. And it is here that the Larosière recommendations should be attractive to market-minded conservatives: More than heavy-handed regulation, what the Europeans are pushing is surveillance: gathering and disclosing the data necessary for measuring and managing systemic risk in the financial system. Among other things, the Europeans want financial regu-

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lators to keep closer tabs on “off-balance-sheet vehicles,” the constructs by which banks hold assets that are kept off the books. The four largest U.S. banks had off-balance-sheet assets valued at \$5.2 trillion at the end of 2008, according to the *Wall Street Journal*. That’s more than one-third of U.S. GDP. Europe’s banks had accumulated a lot of subprime exposure in their off-balance-sheet holdings, too. Taken with the explosive worldwide growth of credit derivatives, these holdings constituted an enormous accretion of risk that more or less flew beneath the regulators’ radar. It’s one thing for a bureaucrat to tell banks and funds what they can and cannot do; it’s a different thing for regulators to know what those institutions are doing.

Markets need information to work. Regulators need information to work, too. It seems reasonable that those of us who want market-based approaches to finance and those who seek tighter regulation should be able to agree on data gathering and disclosure as a mutually acceptable starting point. This is particularly true in light of the intelligence failures that preceded the current crisis.

Those failures were both private and governmental. Among other things, Wall Street firms based their risk estimates for hideously complex financial instruments on an elegant equation, the now-famous “Gaussian copula” (explored in Felix Salmon’s engaging and important *Wired* article “The Formula that Killed Wall Street”), but relied on only about ten years’ worth of house-price data to feed the formula—data from the boom decade. Most of those serving on corporate boards didn’t have the quantitative chops to appreciate just how far over the edge they were hanging their assets, and the regu-

lators were even more poorly equipped. Meanwhile, as the SEC reports, some of the credit-rating agencies grading risky assets were using criteria that were substantially different from the ones they published for their clients—that is, investors using the Big 3 ratings agencies didn’t always know what the information they were paying for was based on.

As with the national-security intelligence failures that led up to 9/11, the financial-intelligence authorities proved unable to “connect the dots” between lax lending standards, over-leveraged financial institutions, mispriced risk, off-balance-sheet vehicles, and global imbalances. And the securitization of mortgage debt, which was intended to help reduce banks’ exposure to housing-based risks, ended up mostly just shifting the risk to other banks, in the United States and around the world. It’s not clear that any regulator, no matter how powerful its tools or sweeping its portfolio, could have prevented this storm. But better disclosure and information sharing would have helped them see it coming, giving both governments and financial institutions an opportunity to dampen the boom and thereby soften the bust. And that’s what conservatives should be fighting for as we reform the financial system: radical openness.

The new mandates that are on the way after the G20 summit are largely informational in nature. Among the changes agreed to, hedge funds that grow large enough to be of systemic importance will be required to register and disclose certain financial information. How big “systemically important” is remains up for interpretation, but it’s assumed to mean \$1 billion or \$2 billion in assets. About 15 percent of U.S. hedge funds have more than \$1 billion in assets. And even here, the Europeans are less restrictive than the heartland Republicans who sometimes distrust them: Sen. Charles Grassley of Iowa has introduced legislation to regulate all hedge funds with more than \$50 million in assets.

Offering the right response to the financial crisis is crucial for conservatives. The last grievous global financial convulsion, the Great Depression, legitimized expansive government and intrusive financial regulation in the American mind for generations, and free-market conservatives still haven’t recovered that political ground. We need to take the best ideas from wherever we find them—even from Paris. **NR**

A Recession’s Import

*The economic troubles
were not made in America*

BY ALAN REYNOLDS

MUCH unnecessary confusion arises from using such phrases as “housing crisis” and “financial crisis” to mean “recession.” That confusion is compounded by wrongly equating the phrase “financial crisis” with the alleged contraction of bank loans.

Conventional wisdom has it that the world recession was precipitated by the unexplained collapse of a U.S. housing bubble, which resulted in massive loan foreclosures, thereby turning mortgage-backed securities into toxic assets that, in turn, caused bank loans to dry up.

There is some truth in all that, but there are also some glaring omissions.

Consider, first, the infamous housing bubble: The latest Organisation for Economic Co-operation and Development “outlook” calculates that inflation-adjusted U.S. housing prices rose by 5.4 percent a year in the U.S. from 2000 to 2006—meaning 5.4 percent on top of the general rate of inflation. This rapid escalation of home prices produced ephemeral windfalls for those selling or refinancing homes, but rising prices became increasingly problematic for new-home buyers. Yet that 5.4 percent U.S. figure pales in comparison with housing inflation in other countries during the same years: 6.7 percent in Canada and Sweden, 8.8 percent in Britain, 9.5 percent in France, 8.3 percent in Ireland, and 11.2 percent in Spain. By Dec. 6, 2007, *The Economist* feared that “America’s housing malaise is slowly spreading.” Strangely, *The Economist* tried to blame falling home prices in Ireland, Britain, and Spain on the far-less-boomy U.S. market—a marvelous example of the trend to blame all the world’s economic troubles on the United States in general and on U.S. bankers in particular.

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Some economists boast of having been quick to notice that the real-estate market was overpriced and overbuilt in Las Vegas, Phoenix, and the exurbs of California and Florida. Seeing that required little prescience, though, since housing starts had already fallen by more than half—from an annualized rate of 2.3 million in January 2006 to 1 million by late 2007—before the recession began. Shrinking home construction subtracted only a bit more than half a percentage point from GDP during the last three quarters of 2008, compared with a full 1 percent loss during much of 2006 and 2007.

Auto sales too were falling long before the recession began—from an annualized rate of 17.5 million in January 2006 to 15.3 million in January 2008 (and, lately, to below 10 million).

Growing U.S. exports kept real GDP

happened is that the deep decline in foreign economies spread to the U.S. through trade, not vice versa.

There was also a horrible series of financial crises last September, but that was to some extent the consequence of a global recession that began much earlier, not the source of the recession.

Although many now claim credit for having predicted the 2006 collapse in housing starts a year or so before it happened, I have not discovered anyone who anticipated before 2008 the extent to which investment banks and commercial banks around the world had misused short-term debt to invest in mortgage-backed securities.

The recession worsened an ongoing housing contraction and thereby reduced the value of mortgage-backed securities (MBS). This precipitated a financial crisis

Geithner-Bernanke team neglected to inform the markets that Lehman's commercial paper would be guaranteed by the firm's assets. But that problem has dissipated.

The recession did not begin with the U.S. and spread like an infection to other countries. On the contrary, the 2008 downturn in GDP and industrial production was least severe in the U.S. and Canada and most severe in Europe, Scandinavia, Japan, and the "Asian Tigers." Most of these countries had no significant exposure to the U.S. mortgage market and no abnormal spate of bank failures. What they had in common was what ten of the eleven post-World War II U.S. recessions had in common: vulnerability to sudden increases in the price of crude oil.

An unduly optimistic 2006 Commerce Department study estimated that if oil rose from \$50 to \$70 a barrel, the increase would shave half a percentage point from real GDP. But crude didn't just rise to \$70; it hit \$100 in late 2007 and then \$145 in 2008. The effect of soaring gasoline prices was seen in declining home sales as early as 2006–2007, particularly in distant exurbs of Los Angeles and Silicon Valley, and in fewer vacations that required expensive driving trips, such as ones to second homes in Las Vegas, Phoenix, and Florida. The effect was also seen in declining sales of cars and trucks in 2006–07, particularly those thirsty for fuel. Meanwhile, the rising cost of energy in general, and petrochemicals in particular, reduced the profitability of producing and transporting a wide variety of goods around the nation and around the world. The drop in corporate earnings, in turn, was reflected in falling stock prices and therefore household wealth and spending.

There has been a global recession, a set of domestic and foreign housing crises, and a largely Anglo-American financial crisis affecting securities more than bank loans. Those are three distinct events with different timelines that happened to overlap. The recession did not begin in the U.S.; it clearly preceded the financial turmoil of last September; and it had virtually nothing to do with the alleged scarcity of bank loans (but much to do with prior excesses of debt). The prolonged downturn of housing starts and auto sales in 2006–07 was not sufficient to sink the economy, but did so when combined with the closely related global impact of an unprecedented surge in oil prices. **NR**

U.S. Bank Loans (Billions of Dollars)			
	Jan. 2008	Mar. 2009	Increase
Real Estate	3,626.2	3,830.3	5.6%
Business	1,448.3	1,544.7	6.6%
Consumer	807.5	892.7	10.6%

SOURCE: WWW.FEDERALRESERVE.GOV/RELEASES/H8/DATA.HTM

increasing through the second quarter of 2008, but this could not be sustained, since the economies of our major trading partners were falling sharply. Indeed, by 2008's fourth quarter, real GDP was just 0.8 percent lower than a year before in the U.S., but 1.7 percent lower in Germany, 2.9 percent in Italy, 4.3 percent in Japan, and 4.9 percent in Sweden. Only one of those countries (Sweden) was among those with roaring housing booms before 2006, so housing busts were not the fundamental problem. And neither were the subsequent bank troubles: Very few of the hardest-hit economies (aside from those of the U.K. and Ireland) were plagued by serious bank failures.

Unlike China, Canada, and Mexico, whose downturns have been fairly mild, many of the most depressed countries were not terribly dependent on exports to the United States. The U.S. now accounts for a smaller share of Japan's exports—20 percent—than does China. Besides, U.S. exports had been growing faster than non-oil imports. What appears to have

that, in turn, worsened the recession. The causality runs both ways. Bank stocks collapsed because of fears of incremental nationalization through TARP's preferred shares, as well as fears (alleviated in March by Ben Bernanke and the Financial Accounting Standards Board) that regulators might require banks to hold additional capital simply because their MBS portfolios had declined steeply in value.

A financial crisis means a crisis for financial institutions, such as Wall Street's former investment banks, and for financial instruments, such as AIG's unsecured guarantees of mortgage-backed bonds. It does not mean, as many supposed, a big drop in bank lending. As the table shows, bank lending has grown surprisingly well since the recession began—not at the 10 percent pace of previous years, but the excessive borrowing of those years will not be fixed through more borrowing.

Last fall's unnecessarily abrupt bankruptcy of Lehman Brothers scared money-market funds away from commercial paper for a while, because the Paulson-

“Few challenges facing America and the world are more urgent than combating climate change. The science is beyond dispute and the facts are clear.”

— PRESIDENT-ELECT BARACK OBAMA, NOVEMBER 19, 2008

With all due respect Mr. President, that is not true.

We, the undersigned scientists, maintain that the case for alarm regarding climate change is grossly overstated. Surface temperature changes over the past century have been episodic and modest and there has been no net global warming for over a decade now.^{1,2} After controlling for population growth and property values, there has been no increase in damages from severe weather-related events.³ The computer models forecasting rapid temperature change abjectly fail to explain recent climate behavior.⁴ Mr. President, your characterization of the scientific facts regarding climate change and the degree of certainty informing the scientific debate is simply incorrect.

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Social Security Myths

They are vanishing along with the surplus

BY CHUCK BLAHOUS

‘WHEN something is unsustainable,” so goes the aphorism, “it tends to stop.” Usually invoked about tangible phenomena, the old saw is equally true about unsustainable arguments. If a conception is unsustainable in the face of overwhelming evidence, it must die. Sometimes it dies with a whimper, sometimes with a bang.

In recent years a fashionable myth took hold on the left end of the American political spectrum: the myth of overly conservative Social Security projections. Social Security didn’t really face a shortfall, it was said in these quarters. The supposed threats to the system amounted to a “manufactured crisis,” based on faulty projections of the Social Security trustees, hyped by conservatives (and their enablers in the scorekeeping agencies) who wanted to destroy the treasured program.

The myth is exploding into pieces before our eyes, done in by evidence that can no longer be brushed aside. Yet such was its power that it continued to be invoked even as Social Security’s projected near-term surpluses were disappearing. While some were renewing their efforts to deny the coming Social Security shortfall, the Congressional Budget Office was quietly providing updated projections for congressional staff. The new numbers showed that the FY2010 Social Security surplus would be almost wholly eliminated: a mere \$3 billion, a pale shadow of the trustees’ projection, last year, of \$88 billion.

To the extent that things are turning out

far worse than the trustees previously envisioned (to say nothing of the persistently more optimistic CBO, whose projections we will discuss later), this was primarily due to factors that no one could precisely have foreseen. Social Security this year faced the programmatic equivalent of a perfect storm: the recession depressed payroll-tax revenues at the same time that Baby Boomer benefit claims were surging, and the program was paying out its largest cost-of-living increase (5.8 percent) since 1982.

Even before the recent downturn, however, the myth was groundless and should never have gained traction. Those who bothered to look could see that there was never a plausible chance that the projected shortfall would vanish. The myth was sustained by various fallacies. Among them were:

Conflation of aggregate and per capita growth. The “National Jobs for All Coalition,” in a typical example of this mistake, recently stated that the Social Security projections “assume that in years to come real GDP will grow much more slowly than it has over the past century or more, when it has averaged around 3.2 percent per year.” The implication—indeed, often the overt statement—of this line of argument is that without this inexplicable projection of a growth slowdown, the problem would be much smaller.

But total growth depends on a number of factors, and some of those factors are changing. The Social Security projections were not arbitrarily assuming a decline in productivity growth per worker—they were taking into account a very realistic projection of a decline in the *number* of workers added to the labor force every year, as the Baby Boomers head into retirement. From 1963 to 1990, annual labor-force growth was never lower than 1.2 percent, and reached as high as 3.3 percent. Now, net labor-force growth is expected to drop to 0.5 percent by the end of the next decade and stay there.

If the workforce grows by less than one-third the rate it used to, we can quite reasonably expect the economy to grow more slowly as well. This demographic reality was glossed over by some, to create the misimpression of arbitrarily conservative future economic assumptions.

Overstatement of the relative impact of economic growth. In a closely related example, a recent *MarketWatch* column

titled “Why Social Security Isn’t Going Broke” stated: “The actuaries’ own low cost projection assumes an average annual growth rate of 2.9 percent between now and 2085. . . . Guess what? Under the actuaries’ low cost projection, the Social Security system never runs out of money!”

This rather makes it sound as though faster growth by itself will eradicate the problem, doesn’t it? But this “low-cost” projection of the trustees isn’t only about faster economic growth. Rather, it’s a hypothetical illustration of what could happen if virtually *every* variable improbably breaks in the direction of a smaller Social Security deficit. The “low-cost projection” assumes that fertility rates *permanently* return to levels not seen since the 1970s. It assumes that longevity grows less over the next 75 years than it has over the past 30. It assumes that inflation after 2010 never rises above 1.8 percent. And so on. The scenario is a compendium of every rosy outcome (from a fiscal perspective) that one can dream up. It is, in short, not plausible.

Misrepresentation of the projection record of the Social Security trustees. Another longstanding myth is that the trustees’ past projections have proven too conservative. In a typical statement from a 2005 budget hearing: “They [the trustees] have been wrong because they have consistently understated economic growth. I believe, in all likelihood, they are wrong again.”

This allegation has developed in direct contradiction of the facts. As I pointed out in a 2007 paper, the trustees’ projection record since the last major reforms is one of impressive accuracy, although they have been slightly too aggressive—that is, they have, to date, somewhat *overstated* the program’s fiscal health.

The myth of excess past conservatism has been fed by cherry-picked references to the few, unrepresentative trustees’ reports that were in fact too conservative: those of the mid-1990s, made just before an unexpected surge in economic growth caught all government forecasters (not only the trustees) by surprise.

Amazingly, if the CBO’s projections are off by a mere \$3 billion and the program enters cash deficits next year, the deficit date will have arrived sooner than predicted in every single trustees’ report since the 1983 reforms. In other words, not a single projection over all that time will have been conservative *enough*. If

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the projections' critics haven't been 180 degrees off of empirical reality, they've been 179.9.

The acceleration of Social Security's difficulties is leaving egg on many a face—not only those of the most vocal problem-deniers, but on those of other forecasters as well. Just last year, CBO, on the eve of this sudden downturn, inexplicably revised the long-term Social Security assumptions to be more optimistic. CBO's projection changes were mysterious at the time, and look startlingly ill-timed now. One assumption they made was that 2001/03 tax policies would expire, along with relief from the AMT, and that federal income-tax collections would be allowed to grow to exceed permanently the historic highs. However defensible as a literal application of "current law" in the near term, no responsible agency should have adopted such an implausible basis for lowballing, in its communications to legislators, the estimated size of the long-term shortfall.

Even stranger was CBO's sudden decision to increase its long-term real-wage-

growth assumptions to 1.4 percent annually—more than 50 percent higher than the historical average over the last 40 years. This put CBO's latest estimate near the faulty 1983 assumption of 1.5 percent, which proved to be far too aggressive. CBO's change was never adequately explained, and its implementation on the eve of current economic difficulties has turned out to be a masterpiece of mistiming.

Whatever the explanations for these various missteps, one thing is now clear: Not only have the trustees' projections not been too conservative, we now face a bigger problem even than previously projected. The refutation of the mythmakers has arrived in the form of an economic crisis that will exact a heavy price: from all of us, including those who saw the problem coming, those who denied it, and those who were innocently oblivious. People from every camp will need to work together to fix the problem that now faces us. Reality can sometimes be an unforgiving teacher. Let's hope that enough of her pupils learn and respond.

NR

Budget Defense

President Obama proposes to spend dangerously little on the military

BY MARIO LOYOLA

By any measure, Secretary of Defense Robert Gates has had a long honeymoon, but it may be coming to an end. The new Pentagon budget was released on Monday of Easter Week, when Congress was dispersed about the country for the recess. Gates may have deftly dodged the bullet of congressional indignation for the moment, but he has good reasons to worry. This is a "transformation" budget

Mr. Loyola, a former adviser in the U.S. Senate and at the Pentagon, is a fellow at the Foundation for Defense of Democracies.

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like its Rumsfeld-era predecessors, and like all reforms, it will anger vested interests. But as Max Boot points out, it is also an austerity budget, which means that it will anger *lots* of vested interests—especially given the lack of any restraint in domestic spending under Obama.

Some cuts probably are a good idea. A prime candidate is the Army's Future Combat System (FCS), a network of vehicles, weapons, surveillance, and communications designed to ensure that our infantry units continue to dominate their tactical "battlespace" for years to come. Prominent critics of Rumsfeld's transformation, such as the American Enterprise Institute's Fred Kagan, have argued that too much investment in network-centric capabilities, especially as a substitute for boots on the ground, carries the risk of making war merely a "targeting drill" disconnected from the ultimate political objectives of the campaign. Secretary Gates has a related criticism of the FCS, namely that if such systems can't prove their adaptability and relevance in today's wars, they should not be prioritized over systems that can—for example, the cheaper and highly successful Mine Resistant and Ambush Protected vehicle.

Armies have a famous bad habit of investing too much in the capabilities of the last war, but for Gates, the Pentagon's problem is too much focus on the next one. "The kinds of capabilities we will most likely need in the years ahead," he cautioned in May 2008, "will often resemble the kinds of capabilities we need today." That was code for "irregular warfare" such as in Iraq and Afghanistan—and bad news for the F-22 Raptor, the exotic high-performance fighter dreamed up in the 1980s to establish air superiority over high-performance Soviet planes that were never built. The F-22 is peerless to a fault. Gates decided to cap them at 187 planes, far fewer than originally planned, instead offering the air chiefs lots of cheaper, multi-purpose F-35 Joint Strike Fighters. In the end, the chiefs agreed—although whether they will obey his prohibition against "guerrilla warfare" lobbying with Congress back in town remains to be seen.

The decision to purchase a third Littoral Combat Ship (LCS)—basically a futuristic, small, fast, stealthy platform that can be configured for a wide variety of missions and can operate very close to shore—is just one example of the priority given to irregular warfare in the current budget. Gates was emphatic that the U.S. has to have the LCS, and the Navy will eventually get 55 of them. Gates also highlighted big increases in unmanned aerial vehicles (UAVs), surveillance technology, helicopter capacity, and special forces—all capabilities that have proven indispensable for "irregular warfare" in Iraq and Afghanistan.

But outside the big win for the LCS, naval procurement is hit hard. The new blueprint calls for slowing production of big new ships to an end goal of ten aircraft-carrier strike groups, down from the current eleven. Precision-strike technology has allowed aircraft carriers to project much more power than ever. But the technology has also made them much more vulnerable to incoming missiles. In the future, strategic bombers, UAVs, and missiles are likely to fill some of the roles played by aircraft carriers today, and the necessary budget adjustments will mean painful dislocations in key congressional districts.

In fact, the budget's constraining top line, \$534 billion, is onerous and will

be felt throughout the military—and throughout Congress. According to one estimate, the new budget is \$8 billion less than the budget for the current fiscal year. But according to Mackenzie Eaglen of the Heritage Foundation, "The costs of doing everything in the military—from paying people to buying new equipment—greatly outpaces inflation every year." For these reasons Adm. Mike Mullen, chairman of the Joint Chiefs of Staff, has advocated keeping defense spending steady at 4 percent of GDP. But even to maintain that number (which is lower than that of any peacetime budget during the Cold War) the budget would have to *grow* by \$27 billion, according to Eaglen.

The most dramatic result of these pressures comes in manpower. Gates announced that the Army and Marines will meet the "end strength" targets set in the final years of the Bush administration. But neither will be able to grow any larger, even though the force is still "stretched" by operations in Iraq and Afghanistan. Worse, because of expected retention problems (due in part, ironically enough, to the enticing new benefits that now await former service members in civilian life), the number of brigades will actually have to be reduced from 48 to 45, stretching the total force further.

In the meantime, procurement costs are also rising, because of the increased consolidation and reduced competitiveness in the military-industrial base. Last year, former senior defense officials Dov Zakheim and Ronald Kadish warned that "unless we act soon, we may find that the only solutions available will be to nationalize the military industrial base or to 'outsource' production of our weapons systems, with excessive portions of that work going overseas."

One way to address that concern is to prioritize quantity over quality where the perfect risks becoming an enemy of the good—as Gates points out, sometimes quantity *is* quality. Another is to get the services to rely on common adaptable platforms, rather than on weapons specifically designed for them. Reducing the number of F-22s in order to get many more multi-role F-35s is an example of both strategies. But in defense procurement, the



ROMAN GERNI

complication is always several steps ahead of the solution.

Missile defense takes a big hit in the new budget, nearly 20 percent. The two systems most popular with theater commanders—the Army’s Terminal High-Altitude Area Defense and the Navy’s Aegis Ballistic Missile Defense—will be manufactured to the maximum capacity of their production lines, and that’s good. But the cut will then fall disproportionately on some of the missile-defense architecture’s most valuable programs—systems that our allies have invested in with us. This led Jon Kyl, Joe Lieberman, and four other senators to write, in a letter to the president, that “cooperation on missile defense is now a critical component of many of our closest security partnerships around the world. We fear that cuts to the budget for missile defense could inadvertently undermine these relationships and foster the impression that the U.S. is an unreliable ally.”

The one system that actually protects American cities from missile launches will be limited to the 41 interceptors on track to be stationed in Alaska and California. Meanwhile, Gates is gutting the Boeing Airborne Laser, the one system that has any chance of knocking out ballistic missiles while they are still in boost phase—i.e., when they are still moving slowly, before their multiple reentry vehicles have deployed, and while any debris will fall only on the launching country. In November of last year, the system registered history’s first test-firing of a laser weapon from inside an airplane.

These cuts widen a dangerous gap in capabilities created by the perennial refusal of congressional Democrats to allocate even one dime for a study of the proper uses of space in missile defense. Space-based missile defense is really the only conceivable way to provide cost-effective, global, round-the-clock defense against enemy missiles, and particularly against missiles in boost phase. By default, the Pentagon is now staking everything on being able to hit missiles well after boost phase, and even after the separation of the warhead, by which time the target is a cold, dark, small object hurtling through space or plummeting to earth at searing speeds.

Obama has promised never to allow the weaponization of space, reviving a relic of Democratic-party dogma that dates at least from the fight against Ronald

Reagan’s Strategic Defense Initiative. Whether his reasons are moral or religious is not known. Certainly they are not strategic or practical. In the long run, the Democrats are doomed to lose this struggle, because the weaponization of space is inevitable, and indeed is already well under way. Intercontinental ballistic missiles use space for most of their flight path. The Chinese are developing a variety of laser-based and “direct ascent” weapons to knock enemy satellites out of orbit. The only question is whether the Democrats will allow us to start developing space-based missile interceptors in time to avert a historic disaster.

Almost as soon as the Nazis came to power, a young, unknown French army officer named Charles de Gaulle began railing against the passive mindset of the French military establishment, which was recklessly staking all on the static positions of the Maginot Line. He advocated the urgent formation of large armored units capable of rapid maneuver and massive concentrations of force, but bureaucratic inertia resisted the penetration of his ideas. As the Germans expanded tank production, the French kept pace, but their tanks were dispersed to support infantry rather than concentrated in large, cavalry-type units as de Gaulle had urged. When the numerically inferior Germans finally attacked through the Ardennes Forest in May 1940, they outnumbered the Allies more than three to one in armored formations, and took just six weeks to roll up the front all the way to Dunkirk.

The first chapter of de Gaulle’s classic three-volume *War Memoirs* is devoted to France’s failure to transform its military before World War II. De Gaulle lamented the “illusion that by making war against war, the bellicose would be prevented from making war. . . . In short, everything converged to make passivity the very principle of our national defense.”

Even with liberal Democrats at the helm, the country is far from so passive a mindset. But in the midst of war, our new defense budget charts a course for spending to reach the lowest proportion of GDP since before World War II. When a nation allows itself to grow militarily weak, a passive defense is next, and grave dangers will not be far behind. As Donald Rumsfeld used to say, “Weakness is provocative.” The messenger may have changed, but hopefully the message will not.

NR

Global Kohordinates

Meet the radical transnationalist preparing to take up residency at State

BY ANDREW C. MCCARTHY

PRES. GEORGE W. BUSH ordered a robust government-wide response to the 9/11 attacks, and did so fortified by an authorization for the use of military force approved overwhelmingly by the American people’s elected representatives in both houses of Congress. U.S. military and intelligence forces, together with a coalition of allies, conducted combat operations that devastated al-Qaeda’s capabilities, killing and capturing thousands of enemy operatives. The National Security Agency monitored international enemy communications, including those crossing U.S. borders, to thwart further coordination between al-Qaeda’s overseas leaders and terrorists in the United States. The Justice Department, using enhanced national-security investigative powers enacted by a virtually unanimous Congress, rooted out terror cells in several successful prosecutions.

The strategy has kept the American people safe from a reprise of 9/11 for eight years. But it was all wrong, argues Harold Hongju Koh, the Yale Law School dean whom Pres. Barack Obama has nominated for the critical position of legal adviser to the State Department. “On the day after the attack,” Koh wrote in 2003, “George Bush could have flown to New York to stand in solidarity with the world’s ambassadors in front of the United Nations.” In reality, the U.N. building and its habitués were not available for a photo-op at the time, owing to the inferno a bit farther downtown. But reality is not Koh’s usual stomping ground.

He prefers the transnational-progressive vision of a post-sovereign order in which terror networks and rogue states are to be controlled by the luminous power of the law. Not American law, or even international law, but global law, first conceived by progressive academics (for instance, Harold Koh), then applied, and supposedly enforced, by supra-national tribunals.

Faced with a terrorist atrocity, Koh argues, President Bush should have forgone all that national-defense mobilization and “supported the International Criminal Court as a way of bringing the Osama bin Ladens and Saddam Husseins of the world to justice.”

Koh is a radical transnationalist. *Transnationalist* is not a term of abuse; it is the term Koh himself uses to distinguish his worldview from that underpinning traditional American jurisprudence—the jurisprudence of national sovereignty. Koh does not see the United States as an independent nation with a natural right to security—the right to “preserve herself from all injury,” in the words of Emmerich de Vattel, the Swiss international-law pioneer admired by the Framers. He instead advocates a “transnational jurisprudence” that “assumes America’s political and economic interdependence with other nations operating within the international legal system.”

Koh’s support of a global legal system is the key to anticipating where he would try to take the country. As Ethics and Public Policy Center president M. Edward Whelan III observes in a spellbinding series on NATIONAL REVIEW ONLINE’s “Bench Memos,” Koh “would be advising on the legal positions that the United States should be taking in federal courts on issues arguably implicating international law. . . . He would be counseling State Department officials on international negotiations, treaty interpretation, and treaty implementation; and he would be a major player in interagency disputes on all these matters.” If confirmed, Koh would be a powerful voice for those who seek to use global human-rights law to control relations not only between sovereign states, but between citizens and their governments. Koh would be enormously influential in an administration that is multilateralist in its instincts, eager to be admired in Europe, fixated on “engagement” (even with our enemies), and inclined to govern with a poorly camouflaged loathing of American power (at least when used to pursue American interests).

The traditional understanding of U.S. sovereignty holds that the American people established a federal system of government to maximize their self-determination. It includes democratically accountable state and local governments to address most concerns, a democratically account-

able national government of limited powers, and legal systems (federal, state, and local) to order transactions within the body politic. Interaction with the outside world is principally political, not legal—the ambit of diplomacy, not courts.

Under the Constitution, legal obligations can be assumed in the international arena, but only through the consent of the governed. Thus the “Law of Nations” (a term for a very narrow corpus, dealing mostly with piracy and the safe conduct of diplomats) applies only to the extent enacted by Congress. Similarly, treaties become the law of the land only if democratically ratified by a supermajority of the Senate.

Koh rejects the traditional understanding of American sovereignty and the constitutional order that maintains it. In his mind, the United States is just one of 192 nations in a “globalizing world” subservient to “the emergence of transnational law.” Democratic decision-making is to be supplanted by judicial oligarchy. As Koh puts it, “Domestic courts must play a key role in coordinating U.S. domestic constitutional rules with rules of foreign and international law, not simply to promote American aims, but to advance the broader development of a well-functioning international judicial system.”

That judicial oligarchy is to be part of, and to take its marching orders from, a transnational avant-garde that serves not the interests of any particular people—most certainly not the American people—but the international law of human rights.

This agenda is to be judicially imposed in two ways.

The first involves redefining “treaty.” Traditionally, treaties are agreements between sovereign governments. They are not self-executing, meaning they create no judicially enforceable rights for states or individuals. Treaty disputes are to be resolved not legally, but diplo-

matically. That presumption can be set aside only when treaties expressly say so, and even here there are limits: A treaty may not supersede the Constitution—it may not vest the federal government, at the behest of foreign powers, with authority to infringe state and individual rights.

Koh & Co. are fundamentally altering this understanding. For the transnationalist, treaties are boundless in scope and presumptively self-executing—empowering judges to impose terms on unwilling states, for the benefit of individuals (even hostile aliens), notwithstanding that these terms never would have been agreed to had they been made explicit. In 2006, for example, the Supreme Court drew on Common Article 3 (CA3) of the Geneva Conventions to grant al-Qaeda American judicial rights, despite the fact that, by its own terms, CA3 applies only to civil wars, and that the Geneva Conventions expressly provide that disputes about the treaty’s application be subject to diplomatic resolution, not lawsuits.

Significantly, the explosion of treaty writing in the last 60 years is chockablock with the Left’s agenda: state control of child-rearing, universal health care, comparable-worth compensation, prohibition of capital punishment, rescission of firearms rights, etc. The U.N. Charter, furthermore, literally would forbid a nation to take action preventing an attack (even if it is obvious the attack is imminent) and allow the Security Council to limit any response to an attack at a whim. Under the transnationalist approach, federal and international courts could emasculate the political branches by giving the force of law to the terms of any international accord—including treaties the U.S. has not ratified.

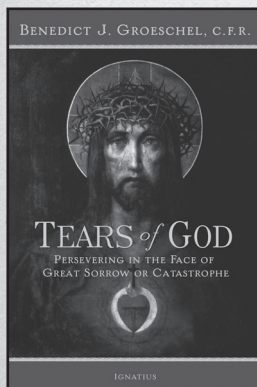
The transnationalist’s second and more sinister mode of judicial rule is “customary international law.” This promiscuous concept began innocently enough: as the notion that, beyond the written international law (found in treaties), there is an unwritten but equally binding law derived from the “general and consistent practice” of nations. Arguably, this is sensible as long as it accurately reflects behavioral norms voluntarily established over a long period of time. But the transmogrification of this concept in modern times eviscerates both consent and custom.

The way the game works is this: Activist law professors such as Koh colude with likeminded NGOs to formulate



“I still think burglar tools ought to be deductible.”

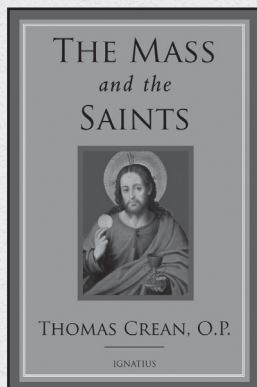
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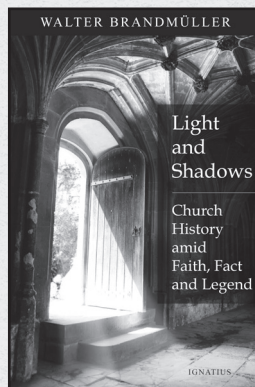
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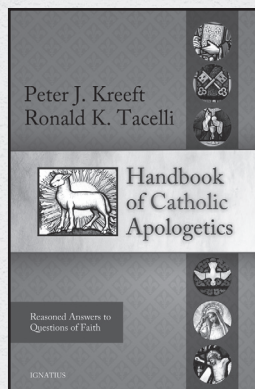
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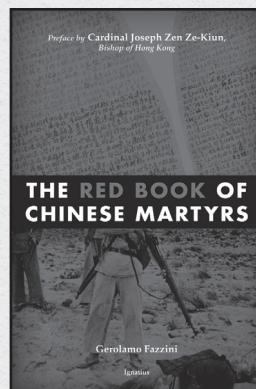


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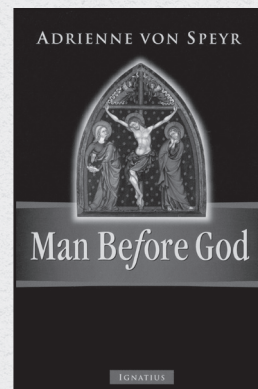
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what are presented as transcendent principles of social and economic justice. These are said to be teased out of treaty terms; the writings of international-law experts who interpret treaties and customs; the diplomatic, political, military, and legal behavior of states; the decisions of international tribunals; the proceedings of the U.N.; and the interpretive publications and conventions of influential NGOs. By the *ipse dixit* of these experts, principles are supposedly invested with the force of common law, becoming applicable in federal courts despite their derivation from treaties the U.S. has declined to sign, much less ratify; treaties the U.S. has ratified only with caveats and reservations that contradict the supposed customary law; or thin air.

When the forces of democratic self-determination protest, Koh disparages them. He writes with contempt about American exceptionalism, urging the “transnational legal process” as the ideal means to “avoid [its] most negative and damaging features.” He rails at “U.S. insistence upon double standards”—which basically means any step America takes in pursuance of its national interests that is out of step with European opinion. He would have courts overrule the death penalty, violate the right to bear arms, and “moderate” our “exceptional free speech tradition.” He would require that alien enemy combatants be tried in civilian federal courts—the disastrous strategy of the 1990s that, as even the Obama administration has recognized, would leave untouched the sea of terrorists who cannot be apprehended or tried under our burdensome due-process standards. And he would require federal and state courts to give effect to the rulings of the International Court of Justice, which in recent years has, among other things, attempted to invalidate death sentences in Texas and held that Israel’s security fence—which reduced suicide bombings by more than 90 percent—is a violation of international law.

As president, Barack Obama is sworn to uphold the Constitution. His nominee for State Department legal adviser, guided by leftist academics and insulated from the will of the people, would diminish the Constitution in favor of rule by judges. Global governance is not American governance—and the difference will make the world a very dangerous place for Americans.

NR

Cruz Control

A Republican star rises in Texas

BY MARK HEMINGWAY

FOLLOWING two brutal election cycles, Republicans are adrift and nearly everyone fingers the same fundamental problem with the party: lack of leadership. Even Democrats have had trouble choosing an elected GOP leader as a target of national attack ads, so they recently settled on radio host Rush Limbaugh. Beyond a few promising governors, the Republican bench is very thin. However, the fact that our current president was a state legislator just five years ago seems to have opened up new realms of possibility. Many in the party are looking deeper into the ranks to identify the next great leader.

Enter Texas attorney Ted Cruz. Cruz hasn’t even been elected to public office

years, where they had very eloquent spokesmen for different companies and corporations, he is by far one of the most dynamic and eloquent orators I’ve ever witnessed.”

At only 38, Cruz has accrued a list of legal honors and accomplishments that would be impressive for a man twice his age. He recently spent five and a half years as solicitor general of Texas; both the youngest and longest-serving solicitor general in state history, he won the Best Brief Award from the National Association of Attorneys General for five consecutive years. Cruz clerked for former Supreme Court chief justice William Rehnquist. He became so close to Rehnquist that he was a pallbearer at the chief justice’s funeral, and Rehnquist in turn had an indelible impact on Cruz: His legal career has been defined by his advocacy of federalism.

Cruz has written over 70 briefs, and presented eight oral arguments, to the Supreme Court. Aside from impressive oral presentations, Cruz is renowned in legal circles for his preparedness. In 2005, when Cruz defended Texas’s congressional-redistricting plan before

At only 38, **Ted Cruz** has accrued a list of legal honors and accomplishments that would be impressive for a man twice his age.

yet, but from the moment he threw his hat in the ring for Texas attorney general, people began saying some pretty bold things.

Cruz certainly has the kind of pedigree that will get him noticed. He’s a Hispanic Republican and magna cum laude graduate of Harvard Law School. But it’s the former college debate champion’s preternatural gifts as a communicator that really set him apart. “I witnessed him in numerous situations where there were difficult debates, whether it was speaking to the local chapter of the ACLU defending conservative policies of the Bush administration or arguing before the [U.S.] Supreme Court in the historic redistricting case,” says Chad Sweet, former chief of staff to Bush Homeland Security secretary Michael Chertoff. “Having been a debater myself but also having worked on Wall Street for twelve

the Court, Justice Stevens actually complimented him from the bench on the quality of his brief. (Such compliments are unusual.) After he won the case, the Democratic opposing counsel were so impressed they inquired about the possibility of Cruz’s joining their firm after his tenure as solicitor general. More recently, Cruz played a role in winning *District of Columbia v. Heller*, the landmark Second Amendment case.

Cruz is no political novice either. He was a domestic-policy adviser on George W. Bush’s 2000 campaign, eventually going on to serve in senior positions at the Federal Trade Commission and the Department of Justice. Accordingly, Cruz has been singled out for praise by everyone from *National Law Journal* to *Newsweek*. A good portion of the hype around Cruz started long before his decision to enter electoral politics.

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“You know, I’m not shocked that he decided to put his hat in the ring for elected office,” says David Panton, Cruz’s college roommate and former president of the *Harvard Law Review*. “Ted’s always been a person who’s a very deep thinker, very motivated, driven by ideas—particularly conservative ideas.” And with his campaign for statewide office already in full swing, Cruz himself seems very comfortable. “I have to admit I’m having fun,” he says of his campaign.

It’s not easy to be a Republican candidate at the moment. “Particularly after this last election cycle, I think Republicans are dispirited and angry and tired of voting for leaders who don’t stand up for principles that matter,” Cruz says. He recognizes that the attention he is receiving might be less a recognition of his achievements than the result of frustration with the party’s current leaders: “I think many Republicans, with good reason, believed that we deserved to lose in 2008 because we stopped standing up for principles we believed in. I think there’s an incredible hunger for new leadership.”

Talking with Cruz, it becomes obvious that he is very unhappy with the party’s recent performance. He’s quite blunt in expressing his disappointment with how the GOP fought the last election. “Obama campaigned as a tax-cutting, small-government conservative. And the Republican party let him get away with that,” he says. “They didn’t point out remotely effectively that he had a voting

record to the left of the only self-avowed socialist in the U.S. Senate.”

Cruz has no problem diagnosing what’s wrong with his party. For starters, he hates how the GOP “systematically undervalues” the importance of communication. “We heard a number of times Republicans speaking about Barack Obama and almost derisively saying, ‘Well, he gives a good speech’—as if that were a moral failing, evidence that he must be superficial if he can give a good speech,” Cruz says. “I think what we misunderstand is that the ability to persuade and inspire is the single most important tool any public leader has. If you think about what was Ronald Reagan’s greatest moment of leadership, I would suggest it was standing at the Brandenburg Gate, saying ‘Mr. Gorbachev, tear down this wall.’ That was a speech!” Cruz then talks about Churchill, gliding into a credible impression of the British prime minister’s nasal warble. “We shall never surrender!” he exclaims. “With one speech Churchill changed the course of history.”

Cruz contends that this lack of focus on communication has created a party that’s too insular—and that anyone who doesn’t understand this is being willfully ignorant of the Great Communicator’s legacy. “One thing Republicans do that I think is disastrous is that many conservatives try and beat their chest and say, We are so terribly conservative—Attila the Hun, he was a squish! [But] what Reagan did was

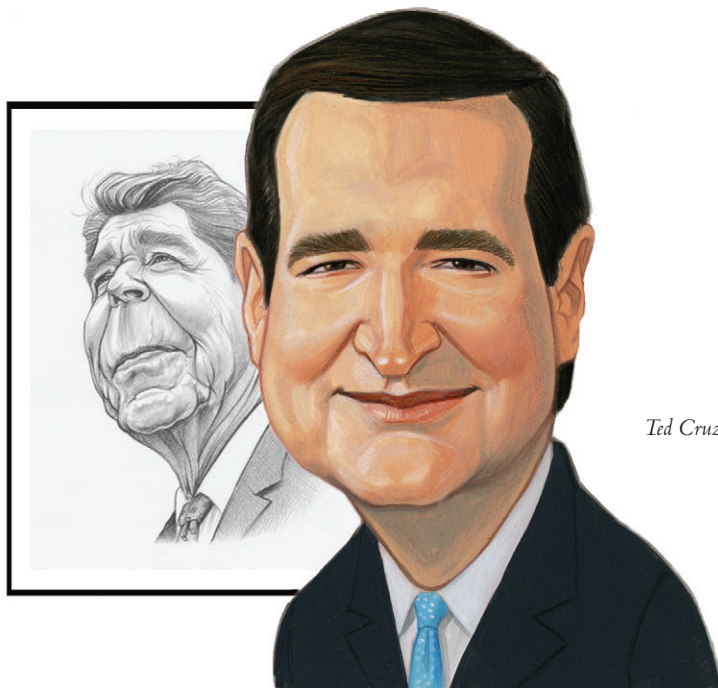
say, ‘The values I’m talking about are commonsense American values that have been part of this country for over 200 years. They’re the values that have been in every small town and every small business throughout this country.’ And he connected with people.”

Of course, it’s not just Cruz’s ability to communicate that has gotten him noticed. Being able to communicate is one thing; having the right message is another. Former Reagan attorney general Edwin Meese calls Cruz “one of the [GOP’s] best leaders” and singles him out for his convictions and his competence. “He’s a public official willing to stand up for his principles. As a lawyer, he’s able to not only defend his principles but also be very successful in doing that.” Indeed, Cruz believes being principled is fundamental to his success as a lawyer. An article in the *Texas Bar Journal* quotes him as passing on this advice at the University of Texas Law School, where he is an adjunct professor: “Credibility is the single most important asset anybody ever has,” he told his students. “Be principled, be the voice of reason.”

Aside from his obvious legal expertise, Cruz is a capable scholar and has written at some length on his understanding of conservative principles, most notably a chapter in a 2004 collection of essays by prominent conservatives titled *Thank You, President Bush*. His chapter is a distilled version of his thoughts about conservatism; if the title makes it sound like something of a vanity project, Cruz’s contribution here is actually a dense treatise, equally comfortable expounding on Barry Goldwater and liberal Harvard political theorist John Rawls. While it’s hard to do justice with a quick summation, Cruz makes the case for what he calls “opportunity conservatism”: “The vision of ‘opportunity conservatives’ is simple and direct: policies that enhance opportunity, that further personal responsibility and the chance to realize the American dream, are good for the polity. Policies that limit options, constrain opportunity, and develop dependency are not.”

Cruz hasn’t even made it through his first primary election yet, so it’s perhaps premature to predict how far he will go in politics. But, in keeping with his own political vision, it’s probably safe to say that Cruz is a conservative with a lot of opportunities ahead of him.

NR
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Ted Cruz

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Mortal Remains

The wisdom and folly in Albert Jay Nock's anti-statism

BY JONAH GOLDBERG

THERE is a stock character in fiction, particularly science fiction, who might be called the Immortal. Whether he be vampire or angel, alien or just some everyman blessed—or cursed—with Methuselah-like longevity, certain traits define the Immortal. He is polite, generous, even kind, but also resigned to the fact that life is often none of these things. Sometimes he is dismissive or condescending, or perhaps bemusedly indulgent of men's political or ideological passions, the way old professors relate to freshmen who insist upon the novelty of their ideas and the audacity of their fervor. He's seen it all before, maybe done it himself when he was a younger man, and he knows deep in the subterranean reservoirs of his soul that there is indeed nothing new under the sun. His own passions are more like cultivated tastes, hard-learned lessons formed by trial and error over many decades. He is disgusted by harmful

stupidity but reluctant to correct what can only be gleaned from firsthand experience. He understands Edmund Burke's insight that "example is the school of mankind, and they will learn at no other."

This thought kept intruding on me while reading the works of Albert Jay Nock, whose elegant criticism of statism seems to grow more relevant with each passing day. Nock was born in 1870, which he believed was as good a year as any to mark the beginning of the end of civilization. Often compared to Henry Adams as a chronicler of his age, Nock was one of the great men of letters of the 20th century. He counted among his friends and admirers H. L. Mencken, Charles Beard, Dwight Macdonald, Oswald Garrison Villard, Frank Chodorov, William F. Buckley Jr., and William Jennings Bryan (for whom he did some work as a special envoy when Bryan was secretary of state). An ironic

DARREN GYGI

feature of the innumerable profiles, remembrances, odes, encyclopedia entries, and biographies about Nock is that they all go out of their way to assert that he was never famous in life, or in death. Many writers would count their blessings if they were cursed with such anonymity.

Born in Scranton, Pa., and raised in Brooklyn, Nock was an autodidact who mastered numerous languages, including French, Latin, and Greek. He spent a good deal of his youth in a small town in upstate New York, where he imbibed from the wellspring of American individualism and gained an enduring appreciation for the power and magisterially ennobling competence of what we would today call civil society (he used the word “society” or “social power” to denote the good and decent realm of life not corrupted or coerced by the state). In 1887 he went to St. Stephen’s College (now Bard), where he was later a professor.

After college he attended divinity school, and he became a minister in the Episcopal Church in 1897. A dozen years later he quit the clergy and became a full-time journalist and editor, first at *American Magazine* and then at *The Nation* (which was still a classically liberal publication). In 1920 he became the co-editor of the original *Freeman* magazine, which, in its four-year run, managed to inspire the men who would one day launch NATIONAL REVIEW and the second incarnation of *The Freeman*, run by Nock’s disciple Frank Chodorov. According to Nock, when a young writer asked if *The Freeman* had any “sacred cows,” Nock said: No, save that the writers must have a point, write it well, and use clear, idiomatic English. Then he dismissed the lad, saying, “Now you run along home and write us a nice piece on the irremissibility of post-baptismal sin, and if you can put it over those three jumps, you will see it in print. Or if you would rather do something on a national policy of strangling all the girl-babies at birth, you might do that—glad to have it.”

A large part of Nock’s mystique stems from the fact that he was mysterious, and deliberately so. He wore a cape, thought as well of Belgium as he did of America, knew nearly everything but pretended that he didn’t read the newspaper (William F. Buckley Jr. recounted how his father once stumbled on the proudly anti-newspaper Nock sitting on the floor poring over the Sunday papers). Nock’s memoirs say nothing about his failed marriage or neglected children and do not disclose his parents’ names or even mention that he played minor-league baseball. The joke at *The Freeman* was that the only way he could be contacted was to leave a note under a certain rock in Central Park.

He wrote a few books, including biographies of Thomas Jefferson and Rabelais. His most famous and successful works were *Our Enemy the State* and *Memoirs of a Superfluous Man*. But he was not prolific. As Chodorov put it, he “had a rare gift of editing his ideas so that he wrote only when he had something to say and he said it with dispatch.”

THERE is something almost hypnotic about Nock’s prose. When the hypnotist first waves the pocket watch in front of your eyes, there’s a simplicity to the ritual that is almost insulting: *The swaying of this trinket is going to bewitch me?* And yet moments, or in this case pages, later you are ensorcelled. Nock, observed H. L. Mencken, “thinks in charming rhythm. There is never any cacophony in his sentences as there is never any muddling in his ideas. It is accurate, it is well ordered, and above all, it is charming.”

This is not, first and foremost, an observation about his gifts as a writer. To be sure, there are greater writers with even more timeless prose. Rather, Nock’s prose conveys a sense of timelessness. His motto was “See the world as it is,” and for Nock the world is, in the most fundamental sense, unchanging. In short, Nock writes like an Immortal, a traveler who has seen it all before. And I do not mean this in the way we say “the immortal Socrates.” Nock would be the first to admit that there were few new ideas in his writing. He took pride in the fact that he was merely reminding those willing to be reminded that whatever is fashionable and new in the ideas of men is little more than a rebranding effort. We may change the wardrobe of humanity, but not its nature. And yet, to Nock’s exasperation, humanity’s innate folly is the belief that the clothes will somehow remake the man.

“I have been thinking,” Nock wrote in 1932, “of how old some of our brand-new economic nostrums really are. Price-regulation by State authority (through State purchase, like our Farm Board) was tried in China about 350 B.C. It did not work. It was tried again, with State distribution, in the first century A.D., and it did not work. Private trading was suppressed in the second century B.C., and regional planning was tried a little later. They did not work; the costs were too high. In the eleventh century A.D., a plan like the R.F.C. [Reconstruction Finance Corporation] was tried, but again cost too much. State monopolies are very old; there were two in China in the seventh century B.C. I suppose there is not a single item on the modern politician’s agenda that was not tried and found wanting ages ago.” Among virtually all of the political writers of the Left and the Right in the 1920s and 1930s, Nock shines brightest for seeing from the outset that the differences between the various collectivist schemes then circulating amounted to differences in branding. “Communism, the New Deal, Fascism, Nazism,” he wrote in his *Memoirs*, “are merely so-many trade-names for collectivist Statism, like the trade-names for tooth-pastes which are all exactly alike except for the flavouring.”

Nock understood that man is lazy, which is not quite the same as slothful. He called this “Epstein’s Law” after a friend who’d said to him over lunch: “I tell you, if self-preservation is the first law of human conduct, exploitation is the second.” Or as Nock rephrased it: “Man tends always to satisfy his needs and desires with the least possible exertion.” And for Nock, the state is the foremost instrument of Epstein’s Law, allowing powerful men to feed off the creativity, productivity, and labor of others under the veneer of legalisms. Every state, according to Nock, was born in conquest and exploitation. In other words, the state “claims and exercises the monopoly of crime.” This is why Nock had such contempt for businessmen claiming the language of free enterprise even as they petitioned and cajoled the state into rigging the system in their favor: “The simple truth is that our businessmen do not want a government that will let business alone. They want a government they can use.” This perspective informs virtually all of his discussions of economic matters, including his very Beardian understanding of the American founding of what he called a “merchant state”: “We all know pretty well, probably, that the primary reason for a tariff is that it enables the exploitation of the domestic consumer by a process indistinguishable from sheer robbery.”

A cold river of anarchism runs across the landscape of Nock’s work, but as Robert M. Thornton wrote a few years ago in a brilliant introduction to Nockianism for *Modern Age*, he was not

an anarchist, as many fans claim (nor was he a home-grown fascist, as one biographer absurdly suggests). Nock's conception of the state was a decidedly German one, and he distinguished it from the American notion of government, which the Progressives worked assiduously to destroy. The state sees itself as the master of society, its author and its spirit, and the means for wholesale redemption. There's a reason the 19th-century progressives referred to it as the "God-State" (a term borrowed from Hegel): They believed that it was the sole agency for material and spiritual redemption. But Nock understood that the state is not the "proper agency for social welfare, and never will be, for exactly the same reason that an ivory paper-knife is nothing to shave with." Government intrusions "on the individual should be purely negative in character. It should attend to national defense, safeguard the individual in his civil rights, maintain outward order and decency, enforce the obligations of contract, punish crimes belonging in the order of *malum in se* [evil in itself] and make justice cheap and easily available." Such a regime would amount to a government by and for the people, not a state in which the citizens are mere instruments of the statists.

found on the Web). It is one of the oddest and most powerful essays in the history of conservatism. At the end of King Uzziah's reign in 740 B.C., the prophet Isaiah was tasked with warning the Jews of God's wrath. But, in Nock's rephrasing of the Biblical text, God gave this disclaimer: "I suppose perhaps I ought to tell you that it won't do any good. The official class and their intelligentsia will turn up their noses at you and the masses will not even listen. They will all keep on in their own ways until they carry everything down to destruction, and you will probably be lucky if you get out with your life."

Isaiah asked why he should even bother, then? "Ah," the Lord said, "you do not get the point. There is a Remnant there that you know nothing about. They are obscure, unorganized, inarticulate, each one rubbing along as best he can. They need to be encouraged and braced up because when everything has gone completely to the dogs, they are the ones who will come back and build up a new society; and meanwhile, your preaching will reassure them and keep them hanging on. Your job is to take care of the Remnant, so be off now and set about it." For Nock, the Remnant was his audience. At times, the idea of the Remnant is

Here is the odd, or wonderful, thing about Albert Jay Nock. For all his clarity and passion, he professed no interest whatsoever in trying to persuade anybody.

But here is the odd, or wonderful, thing about Nock. For all his clarity and passion, he professed no interest whatsoever in trying to persuade anybody. "The wise social philosophers," he wrote, "were those who merely hung up their ideas and left them hanging, for men to look at or to pass by, as they chose. Jesus and Socrates did not even trouble to write theirs out, and Marcus Aurelius wrote his only in crabbed memoranda for his own use, never thinking anyone else would see them." Indeed, Nock struck a pose of bemused disdain for the self-proclaimed prophets of the New Age—the Father Coughlins, the Huey Longs, the Upton Sinclairs, and even the Liberty Leaguers. Surveying the landscape of demagogues, mountebanks, and experts sucking the oxygen out of democratic discourse in the 1930s, he wrote, "I cannot remember a time when so many energumens were so variously proclaiming the Word to the multitude and telling them what they must do to be saved."

Nock would have no use for today's tea parties or talk-radio Jeremiahs of the Right, but he would also scoff at Paul Krugman and roll his eyes at Barack Obama's talk of hope and change, for he denied that the state was the proper object of hope or a worthwhile agent of change. Moreover, he had contempt for the vast bulk of humanity, the "Neolithic mass" and those who spoke to them. In the dark, or at least darkening, age in which he believed himself to live (Nock died two weeks after Hiroshima), he cared only for the Remnant—a tiny slice of humanity he could describe but not locate. The best way to grasp this idea is to read his 1936 *Atlantic* essay "Isaiah's Job" (easily

unapologetically elitist, but in a thoroughly Jeffersonian way. The Remnant were not the "best and brightest," the most successful, the richest. Rather, they were those occupying the "substratum of right thinking and well doing" (in Matthew Arnold's words). "Two things you do know, and no more: First, that they exist; second, that they will find you. Except for these two certainties, working for the Remnant means working in impenetrable darkness."

And it is here that we find an explanation for why Nock is so admired by liberals such as *The New Republic's* Franklin Foer and the *New York Times's* Sam Tanenhaus: He openly embraced the idea that he couldn't change anything. History was driven by forces too large to be affected by politics or punditry. Any revolution would result only in a new crop of exploiters and scoundrels eager to pick up where the deposed ones left off. So, Nock figured, why bother with politics? Now what more could today's liberals ask for from a conservative pundit?

Nock was charming, eccentric, cosmopolitan, and very, very interesting. But his *Immortal's* cynicism left him with a self-absorption that amounted to a personal philosophy of muddling through. "Taking his inspiration from those Russians who seemed superfluous to their autocratic nineteenth-century society and sought inspiration in the private sphere, even to the point of writing largely for their desk drawers," writes Robert Crunden, Nock's best biographer, "Nock made the essential point: ransack the past for your values, establish a coherent worldview, depend neither on society nor on government insofar as circumstances permitted, keep your tastes simple and inexpensive, and do what you have to do to remain true to yourself."

Still, he was wrong about many things, and his formulations were often too simple. For example: Yes, the New Deal, Bolshevism, and Nazism were different trade names for collectivism, but their differences were vastly greater than those between flavors of toothpaste. Only when viewed from a very high altitude—precisely where Nock’s mind resided—could the differences be seen as trivial. Likewise, only an Immortal’s detachment could allow him to be torn between Belgium and the United States. But Nock’s greatest mistake lay in his fatalism and, perhaps, his misreading of the times he lived in.

Nock’s lifespan connected two high-water marks in the tidal floods of American collectivism. He was born amidst the post-Civil War Radical Republican fever, lived through the dementia of World War I (as an anti-war ideologue, no less), and closed out his life watching the New Deal unfold and World War II seemingly accelerate the slide to statism. Before the New Deal, nothing in America had ever truly resembled the German concept of the state, and everything he knew told him that statism’s grip would only tighten. He bravely dissented from the overwhelming consensus that collectivism was the most desirable form of social organization. But he in effect surrendered to the same consensus that it was the “wave of the future.” It’s little surprise that Nock thought the string would need to play out.

But he was wrong that statism was inevitable, partly because he was right about the need to speak to the Remnant. Buckley, Chodorov, and countless others took inspiration from Nock or from Nockian ideas, but they did not write for their desk drawers. They shared Nock’s fatalism at times—standing athwart history yelling Stop, and all that—but they actually *yelled* Stop. Nock did not believe in anything so crude as yelling, even in purely literary terms. His successors did, because they shared Burke’s understanding that “when bad men combine, the good must associate; else they will fall one by one, an unpitied sacrifice in a contemptible struggle.” Likewise, when bad ideas seem good, men who know otherwise must say so, lest society slip under their spell. That was the key lesson the disparate righteous took from Nock the Prophet as they associated to form the modern conservative and libertarian movements—even if, as Nock fully understood, they didn’t know where their ideas came from, or that Nock’s fingerprints were upon many of them.

And that is why the Right is in so much better shape than it was during Nock’s time, even as liberals are mounting a statist revival. Yes, statism is on the march again, but anti-statism isn’t an amusing pursuit for cape-wearing exotics like Nock anymore; it is the animating spirit of institutions launched and nourished by lovers of liberty. Retreating into the Nockian cocoon of the good life may be appealing, but it is morally defensible only if creeping collectivism is impervious to resistance. Moreover, the American people are not nearly as Neolithic as Nock believed, proof of which can be found in the slow and uneven unraveling of statism since his death, as with the still-unfinished Reagan Revolution. This, again, explains why liberals can be nostalgic for Nock while lamenting what has become of his successors: Nock was content with failure, his heirs are not.

As a personal philosophy, there’s everything to love about Nock’s approach to life. As political prescription, it is folly, for it exempts the Remnant from any obligation to expand the ranks of the righteous. And that is why the greatest tragedy of all would be for Nock’s mortal heirs to follow his Immortal example. **NR**

Why Constitutions Matter

Examining the legal root of the financial crisis

BY RICHARD A. EPSTEIN

THE current financial meltdown has exposed the myth that our nation’s sophisticated, multilayered scheme of government regulation immunizes us from systemic failure.

We are realizing that shocks, from both home and abroad, will exact their toll. What is less commonly appreciated is that the very political institutions on which we depend count as a structural cause of much of our current distress. In many cases, the root of our problems lies in the legal restrictions that block the movement of prices and wages in financial markets. It is just this sort of folly that has embroiled the Obama administration in testy disputes with bankers who are desperate to return their TARP money. These banks cannot afford to bleed talent to foreign and start-up companies that operate (for the moment at least) free of Obama’s egalitarian compensation-control shackles.

That said, at least some portion of the current malaise comes from a more prosaic source: We don’t honor the straightforward moral imperative that promises must be kept. Our modern crisis has been brewing since the Supreme Court started inexorably casting aside protection for property and contract in an effort to cope with economic tumults from Roosevelt’s 1930s through Reagan’s 1980s. On this score, our flawed constitutional framework suffers from two related mistakes, both of which are endorsed by acclamation today. The first is the notion that the government may be permitted to disrupt financial transactions between private parties in ways that frustrate the unambiguous expectations of the parties. The second is the idea that the government need not honor its own promises in dealing with private individuals.

These two propositions are stated at a level of abstraction that is likely to draw yawns of indifference from anxious policy wonks who fixate on the latest twists in the fortunes of AIG or Citibank. But these dramatic financial struggles play out against a background of weak contract and property rights—a system that drives political operatives into high gear in times of economic stress.

The legal stability of private agreements offers one powerful bulwark against these mischievous government activities. Once people know that courts will enforce their agreements as made, they have no incentive to beg for government favors to improve their contractual positions. One avenue of political intrigue is closed down. The stabilization of contractual arrangements

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will not of itself stop all political hijinks, but it will go a long way toward incentivizing firms to focus on creating wealth, or on renegotiating their existing agreements that have turned bad. These business workouts are not sterile. They increase the total wealth of the parties, and they create additional business opportunities for strangers to the basic deal. As the circle of contracts expands, so does the economy. One good idea, applied numerous times, generates tremendous benefits.

The same logic applies to deals between government entities and ordinary citizens. The principle of rational expectations still holds. Any government can euchre its citizens once. But if everyone knows it can renege on its commitments at will, it can't pull the same stunt twice. People will steer clear of doing further business with government, which then loses one key tool—voluntary agreement—that it desperately needs to address today's plethora of economic ills. Everyone stands back, leaving coercion, not cooperation, as the dominant form of government action.

IN the modern era, state interference with private contracts began, most tellingly, with mortgage foreclosures during the Great Depression. In *Home Building & Loan Association v. Blaisdell* (1934), the U.S. Supreme Court had to decide whether Minnesota law could delay a bank's foreclosure of real estate subject to unpaid mortgages. The answer was Solomonic, but wrong: Minnesota could not kill the lender's right, but it could alter the lender's remedy; the change had to be reasonable, but what was reasonable was to be decided by the state on a case-by-case basis, with the legislature acting "primarily" as the judge.

Demographically, we should expect the debtor interests to have prevailed in those early legislative tussles. It is a brute fact that a smallish number of banks made loans to a large number of local businesses and residents. When large groups of debtors exerted pressure, state legislatures responded with mortgage moratoria. Postponing debt collection in turn put pressure on banks as borrowers from their own depositors, which eventually led to a nationwide collapse of the banking system. The world would have been a very different place if the state had been forced to pay from public funds to forestall mortgage foreclosure—a prospect that would have generated far less political support. Then the cost of its forgiveness would have fallen on the public balance sheet, and voters would in all likelihood have decided the price was too steep.

I am no fan of this system of public relief, because it lets some citizens impose obligations on others; but its shortcomings are small compared with those of a system of state-mandated loan forgiveness. The latter is a form of "off-balance-sheet financing" that lies under the social radar, since it is so hard to monetize these contract modifications in ways that make clear their costs. Worse, these modifications ignore the impact of the delay in payment on the bank's position. Then, as now, banks often accepted demand deposits or short-term notes. Once the mortgage payments are postponed, bank failures become more likely as antsy depositors clamor to withdraw funds in a flight to safety. The short-term fix for borrowers opens up a gaping hole for the lending banks, who themselves have borrowed. The Depression bank failures and the Roosevelt bank holidays were the inexorable consequence of this credit squeeze.

Today, the power over mortgages has passed from the states to the federal government—but the old habit still exerts a powerful

influence. The Obama administration is keen on postponing the collection of loans, by ordering workouts that block foreclosure and extend the life of the mortgage. The rules influence not only those who are already in default, but those who are behind in their payments or who may choose to default. The shakiness of home mortgages spread rapidly throughout the system as the initial loans were sliced and diced. As repackaged, these loans worked their way through the system, so that other financial institutions came under stress, including our two government bankers, Fannie Mae and Freddie Mac.

The numbers are impressive. Over 2.3 million homes went into foreclosure in 2008, and the first two months of this year racked up over 500,000 additional ones. Most critically, the current dislocations don't come solely from the properties in foreclosure. They also come from the perceived increased riskiness of homes *not* in foreclosure. This forces a downward revaluation of all the securitized packages now on the market, which in turn imposes enormous pressure on banks and other entities to liquidate their holdings to meet their various regulatory and contract requirements.

We can't, moreover, dig our way out of this hole by following the 1930s policy of repayment delay. The securitized packages have to take those losses into account *today*. And their valuations will reflect the grisly fact that today's distressed borrower is likely to fail tomorrow, when the property is worth even less. Remember: Many defaults come from borrowers who paid little or nothing down on their mortgages, and who did little to build up their equity in the property before defaulting. To act as though these recent buyers were landowners with an indissoluble bond with the soil is to glorify their status without warrant.

In contrast, many debtors back in the Depression had made large down payments, only to be savaged financially by the steep deflation that forced them to default when they were unable to repay their debts with more expensive dollars than they had borrowed. Fortunately, Fed chairman Ben Bernanke has not repeated the mistake of the 1930s, when government tolerated a massive contraction of the money supply that deflated the currency, implicitly increasing the real amounts of all debts, and thus driving borrowers into unnecessarily deep holes that only a reinflation of the currency could have cured.

Today's constant efforts to rig mortgage markets frequently have a *different* unpleasant consequence: They tax prudent borrowers in the hopeless quest to stave off financial ruin for the imprudent, who are likely to default a second time down the road, when the underlying real estate is worth even less. It is better to get the process over with quickly and have the original owner return to the rental market, while letting new buyers purchase the property out of foreclosure at low prices, with clean title and little fanfare. This trend is starting, and we need to do everything we can to accelerate it. Unfortunately, the current willingness to meddle with mortgages blocks that cleansing process in a second way. There is a huge glut of houses on the market that were placed there by people who want to sell before they go underwater. We thus face this genuine paradox: Lenders are eager to lend, and there seems to be an ample amount of cash at low rates; there are often competent buyers waiting for these houses; yet the buyers simply cannot arrange financing.

Why do we have, simultaneously, falling prices and a small number of sales? Much of the price fall can be explained as a contraction of the bubble; the market has yet to reach a new equilib-

rium. And doubtless much of the hesitation is in response to the current uneasy economic climate, which is in part attributable to the risks of higher taxes and new regulatory schemes. That said, one part of the mix is the continued uneasiness over the risks of further interference in mortgage markets down the road. Investors and banks know that the government has disrupted private transactions to the detriment of creditors once, and fear that it will do so again.

Of course, Congress could swear on a stack of seven Bibles that it would never behave as it did the last time around. But who will believe them now that the state's power is construed so broadly as to allow the government to reshape lending markets in whatever fashion it sees fit? The situation infects not only the residential-home market, but larger transactions to build office complexes and apartment houses. The fancy footwork of debtor relief may help some borrowers, but it won't encourage wary lenders to return to the market if they lack confidence in our current institu-

parties. Stripping them of all constitutional protections lets political forces destroy them at will. Don't believe me; read the Court's emphatic words: "Our cases are clear that legislation readjusting rights and burdens is not unlawful solely because it upsets otherwise settled expectations. . . . This is true even though the effect of legislation is to impose a new duty or liability based on past acts." And, equally ominously: "A public program that adjusts the benefits and burdens of economic life to promote the common good . . . does not constitute a taking requiring Government compensation." Alas, confiscation is the ideal way to shift around benefits and burdens. So much for Hume's settled expectations.

Second, the Court declared itself unfazed even if contract claims *did* count as property: After all, the contributors had "sufficient notice" that pension plans were regulated, and thus took the risk of financial losses by government alteration of financial terms. Hey, by this logic I needn't pay taxes so long as I give the

Why do we have, simultaneously, falling house prices and a small number of house sales? One part of the mix is the continued uneasiness over the risks of further interference in mortgage markets down the road.

tional arrangements. David Hume always stressed the "security of possession" in dealing with property arrangements. Our cavalier attitude toward private transactions has already done enough mischief to prove that he was right.

A PARALLEL story explains the decline in confidence in contracts that government makes with private individuals. Of all contracting parties, government has the obligations that should be the most secure—because states do not have financial constraints that block them from discharging their contracts. But the history of government obligations tells a different story. Governments claim, and get, special privileges, which led Justice Holmes to say, only half critically, that people have to learn to turn "square corners" in dealing with the government.

Here is one example of the risks. In *Connolly v. Pension Benefit Guaranty Corp.* (1986), the PBGC was a wholly owned government corporation charged with administering a multiemployer pension plan to which individual companies had contributed. These deals contained explicit government assurances that the participants could withdraw from these plans without prejudice at any time. The right to withdraw was the means to prevent government mismanagement. But mismanagement there was, so, as the fund's position became more precarious, member companies started to withdraw. Congress promptly switched gears with a new statute that imposed on these firms new liabilities—all to preserve the validity of the original scheme.

A unanimous Supreme Court blessed the retroactive modification of the original plan on two dubious grounds. First, it asserted, mere contract rights should not be treated as a form of property. Unfortunately, most complex financial assets are in the form of contract claims against a bewildering array of counter-

government sufficient notice of my intentions. The truth is, notice itself is a neutral concept. In some contexts, it should bar constitutional claims; in others, not. A sound system for recording deeds informs the world who owns what property. It therefore facilitates trade to make everyone consult the index before buying or lending. But "notice" as it used in the *Connolly* case is just an effort to bully individuals into ceding to the government a dominant position. Its unilateral imposition on others crimps the liberties of ordinary people just as the tax evader does—or, indeed, the common criminal, who blithely announces that anyone who walks the public street at night is fair game.

We don't need specific notice to discover that desperate government officials will use various measures to expand their sphere of social control. That's a social given. It is therefore the height of folly to adopt any rule that holds that individuals lose their contract or property rights if they have notice of future government misbehavior. To adopt that position is to allow the government to use its own misconduct to shore up its defenses against constitutional attacks. The incentives for bad conduct are just irresistible.

Here's the most conspicuous example of government's tendency to interfere in a harmful manner—one ripped straight from the headlines. President Obama announced his outrage over the "shameful" compensation package totaling around \$165 million for AIG's executives, given the \$200 billion or so that the government has pumped into the company. Let's bracket the question whether any bailout makes sense at all. (It probably doesn't.) Either way, someone has to run the ship. The current generation of AIG executives replaced those who engineered AIG's bad credit-default swaps before 2005, and they were given repeated assurances that their retention packages—which are not inflammatory "bonuses"—would be paid in full. There is no way for anyone to

recoup today any payments made to the people who set the fire. But it hardly helps the situation when we compound earlier errors by mounting an indiscriminate attack on the current executives, folks who are charged with putting out the fire.

At one time it looked as though this attack would crystallize in legislation. After all, the House has already passed a bill to levy a special tax on the misnamed “bonuses” to employees of any financial company that has received more than \$5 billion in TARP funds, when the employee and spouse have a combined adjusted income of more than \$250,000.

Now the bill is stalled, but for the worst of reasons: These executives have been bludgeoned into surrendering their payments. It is not a pretty picture. Republican senator Charles Grassley urged the offending AIG employees to either “resign or go commit suicide.” Sweet. Connecticut attorney general Richard Blumenthal and New York attorney general Andrew Cuomo threatened to disclose the names of AIG employees who did not return their bonuses. AIG itself, under government pressure, demanded on Friday, March 20, that the key employees return all or part of their bonuses by the close of business on Monday, March 23. Many caved. Some are now suing.

These stunts cannot encourage able people to work for businesses that are under the government yoke. Yet for all the tumult, no one bothered to ask whether these new employees had done any good. For the record, they have reduced AIG’s exposure for credit-default swaps from \$2.7 trillion to \$1.6 trillion. It is madness to let political pressures jeopardize the \$200 billion cash infusion to make political hay over retention payments less than one-tenth of 1 percent of that amount.

Grotesque as it sounds, if Congress did pass the AIG tax, the precedents are so bad that our courts might well sustain it. In this depleted constitutional environment, therefore, the “smart money” will take to the sidelines while the “dumb money”—e.g., people like me—will take a market drubbing. Liberal economists like Paul Krugman posit Keynesian “liquidity traps.” True in the 1930s, but wholly inappropriate today in a world awash in money but short on confidence. No, the current malaise arises because the smart money doesn’t want to have the rug pulled out from under it. So it invests only in rich deals to offset the political risks, and thereby inspires indignant denunciation of greedy capitalists. The want of credible government commitments spurs a mad rush into Treasury bills, while large projects languish and mortgage markets remain sluggish even as banks dangle low-interest mortgages. The loss of confidence stems from many sources, including the present political risks. Normally, those risks are small, but they multiply when President Obama vies with congressional leaders in outraged indignation, thereby burning billions in social capital. We have liquidity. We need to restore the confidence that is being shredded day by day.

Recent events show how our dilapidated legal framework is one remote cause of our current financial disarray. In and of themselves, bad constitutional rules don’t obligate political actors to behave imprudently. But when they are tempted to do so, no sensible constitutional institutions are there to hold them in check. James Madison observed in *Federalist* 10 that “enlightened statesmen will not always be at the helm.” Unfortunately, he didn’t tell us what to do when all three branches are unenlightened. Unless we repair our tattered constitutional heritage, we’re in for a long period of strident rhetoric and economic stagnation.

NR

PIRACY And Civilization

A lesson for our time

BY JOHN O’SULLIVAN

WHEN U.S. Navy SEAL snipers killed three Somali pirates and rescued Capt. Richard Phillips off the coast of East Africa, they struck a blow for civilization in general and for the liberal civilization of the West in particular. Pirates took an American hostage; they sought a ransom and their own freedom in return for his release; and, when negotiations dragged, they seemed about to shoot him. The snipers, steadying themselves in choppy seas, delivered three shots to the head. If ever a military action deserved the name of “surgical strike,” this one did. It was justified, precise, and lethal. It killed the pirates, rescued Phillips, and avoided harming anyone else. It was, in short, an object lesson in how civilizations can and should deal with their barbarian enemies.

Almost as much should be said about the rescue of four hostages by French Navy commandos three days earlier off the same Somali coast. Two pirates were killed by the naval commandos and three are now in French custody. It is regrettable that one hostage, the owner of the luxury yacht seized by the pirates, was killed. It gives us a salutary reminder that military action produces casualties. That inevitably qualifies the luster of the rescue attempt. Even so, four innocents who might be dead are alive; five pirates are facing justice either divine or Parisian; and a civilized power has shown that it can defeat piracy with very little effort beyond that of will.

Many decent Westerners will not see either military action in that light. Some will deplore the use of force against pirates who had not definitely abandoned negotiating. Others, while accepting that the shootings were necessary to save hostages from the threat of imminent murder, especially in the case of Captain Phillips, will regret that a less draconian method of rescue was unavailable. And a third group will wonder aloud whether the shootings were not perhaps illegal under international law. Almost certainly, a fourth pirate held by the U.S. will not lack for defense lawyers seeking to discourage any such robust unilateralism in future. Maybe the State Department’s prudent lawyers will end up keeping him permanently afloat in the brig of the USS *Bainbridge* in order to avoid a trial that puts the U.S. Navy in the dock in every sense.

FOR the moment, though, we are not hearing these voices of doubt and skepticism. We are in the early stage of a civilized victory before we have been made to feel guilty about it. We are allowed to enjoy the details of its success. Thus the media are full of rejoicing at the rescue of

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Fri/July 10	Dubrovnik, Croatia	8AM-6PM	late-night smoker
Sat/July 11	Corfu, Greece	8AM-6PM	
Sun/July 12	Katakolon, Greece	7AM-2PM	afternoon seminar evening cocktail reception
Mon/July 13	Santorini, Greece	8AM-9PM	
Tue/July 14	Ephesus, Turkey	7AM-7PM	"night owl" session
Wed/July 15	Piraeus, Greece	8AM-6PM	"night owl" session
Thur/July 16	AT SEA		morning, afternoon seminars late-night smoker
Fri/July 17	Messina, Sicily	7AM-2PM	afternoon seminar evening cocktail reception
Sat/July 18	Rome/Civitavecchia	7AM	



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Phillips, who is that rare thing: a modern hero. He volunteered as a hostage in order to get his crew released, sought to escape the pirates by jumping into the sea and swimming for it, and proved on his release to be a modest and unboastful man. There is an almost Victorian feel to this kind of heroism for the very good reason that the Victorian age mass-produced such heroes.

And I do mean “mass-produced”—when the British troopship *Birkenhead* struck a reef off South Africa in 1852, the soldiers were ordered by their officers to remain on deck so that the women and children could leave for safety in the lifeboats. They did so, remaining in formation as the ship sank. A surviving officer said later with understated pride: “All received their orders and had them carried out as if the men were embarking instead of going to the bottom; there was only this difference, that I never saw any embarkation conducted with so little noise or confusion.” More than 400 men perished in the seas that night; all the women and children survived; and the “*Birkenhead* drill” became a symbol of heroic self-sacrifice for the age.

Civilizations cannot expect victories against ruthless barbarians unless they produce heroes who rise to challenges in this way. As Iraq and Afghanistan both show, however, America

captain, he proved modest in the matter, staying out of the limelight, leaving his spokesman to report what had been done. Since the rescue, he has confined himself to suitably diplomatic promises to “halt the rise of piracy” in concert with other powers. At no point has he seemed fearful of looking insufficiently progressive.

Of course, a certain such aloofness is Obama’s style. Also, he has not needed to promote his role in this crisis, since the media have performed that service for him. Columnists argue that the rescue will boost his standing as a Democrat who has the guts to order a military response. His order to shoot the pirates has been compared to Ronald Reagan’s firing of the air-traffic controllers. Both are seen as warning potential opponents not to underestimate the man they’re dealing with.

But there are pitfalls here. A better example than Reagan and PATCO—a domestic economic dispute—would surely be Margaret Thatcher’s ordering Britain’s SAS commandos to invade the Iranian embassy (then in the hands of terrorists) and rescue the hostages held captive there. Like the rescue of Phillips, this was a success. None of the hostages was killed—and all of the terrorists perished (except one whom the SAS mistook for a hostage in the confusion). The rescue occurred in

When lives are at stake, there is no point in fighting inefficiently or in taking foolish risks. A sensible hero fights bravely when he needs to do so; but first he fights prudently in order to avoid fighting bravely.

continues to mass-produce such heroes (even if the media are more interested in them as victims). And their heroism comes in different guises. If Captain Phillips was a hero of courage, the men who killed his captors appear to us more as heroes of skill. Like the U.S. soldiers who fight and die in Iraq and Afghanistan, they would doubtless put themselves in harm’s way if necessary. But heroes are not reckless or foolhardy. When lives are at stake, there is no point in fighting inefficiently or in taking foolish risks. A sensible hero fights bravely when he needs to do so; but first he fights prudently in order to avoid fighting bravely.

For there are such creatures as heroes of prudence. In general the prudential hero is someone in a position of power or authority. His courage consists of making the right decisions in difficult circumstances and sometimes against fierce opposition or in contrast to his interests and alliances. This is known as moral courage, and though it ought to be easier to summon up than physical courage, it has often been in very short supply. As Charles Péguy once said: “It will never be known what acts of cowardice have been motivated by the fear of looking insufficiently progressive.”

IN this case the hero of prudence is President Obama. He gave the crucial order to shoot the pirates if that proved necessary to save the life of Captain Phillips. Like the

her first year of office. Like Obama, she gave the crucial order to “go in.” The action was seen live on television, since the news organizations were parked permanently outside the embassy. So, even before the Falklands War, the SAS rescue gave Mrs. Thatcher the useful and accurate reputation of being one tough babe.

Obama and Thatcher are probably alike in benefiting politically from their decisions to order a military rescue. Where they may differ is that the SAS rescue looked like a natural element in Thatcher’s politics. It foreshadowed her conduct of the Falklands War, her role as Reagan’s ally in the Cold War, her support of the U.S. bombing raid on Libya, and much else. It reinforced the apparent logic underlying her overall strategy of a British national revival and therefore gave credibility to her political appeal.

Obama’s overall strategy is to emphasize domestic policy and the economy over foreign policy and, within foreign policy, to stress diplomacy and negotiation over military force. A military rescue, however justified and popular, fits less comfortably into this pattern. To be sure, its apparent hawkishness may provide the president with cover for a more dovish foreign policy than the voters would otherwise accept. But it may also foster an appetite among the voters for a tougher, more nationalist, and more interventionist policy than he would ideally pursue. That second possibility is more likely if the issue of piracy grows in importance both in reality and in the American

imagination. For piracy is one of several issues where military intervention is a liberal cause more than a nationalist one.

AND it is very likely that piracy will grow. Indeed, it has been making an international comeback since the Vietnam War. In the early 1980s, “boat people” fleeing Communist rule in Vietnam were frequently murdered by pirates in the China Sea. Drugs and illegal migration have fostered growing piracy in seas around Indonesia, the Philippines, West Africa, and the Caribbean since the 1980s. In the 1990s the collapse of any kind of ordered government in Somalia turned the former fishing villages of its coast into nests of pirates. An Internet map of places infested by pirates today shows them operating off Venezuela, Algeria, Nigeria, Angola, Kenya, Tanzania, India, Pakistan, Malaysia, Sri Lanka, Indonesia, Australia, the Philippines, and even Italy. (Pirates smuggling illegal migrants into Italy, incidentally, have been known to reverse the morality of the HMS *Birkenhead* and throw women and children into the sea to escape pursuers.) What is more, the scale of the threat is growing constantly: According to the International Maritime Bureau, there were 199 maritime attacks in the first nine months of last year. Media reports suggest that the rate has risen substantially since then.

But how destructive is piracy, as a business, to other businesses? This is hard to answer, for, as piracy has grown, the shipping industry has adapted by treating it as a business expense. As W. S. Gilbert wrote of the sinking of the *Ballyshannon*: “Down went the owners—greedy men whom hope of gain allured / Oh dry the starting tear—for they were heavily insured.”

Hence it is almost impossible to estimate the economic cost of piracy; until recently, ship owners often failed to report hijackings. It cost them more to keep their ships in port while investigations proceeded than it did to absorb the costs of piracy or to recoup them from insurance companies.

But adapting to piracy, i.e., failing to resist it and passing its costs on to customers, ensures in theory that it will continue to grow, at least until the customers rebel. That seems to be happening in practice: A London-based corporate risk consultancy, BGN Risk, estimates that the insurance risk premium for crossing the Gulf of Aden has risen in short order from \$500 per voyage to \$20,000. That translates to an increase in shipping insurance and transportation costs of \$400 million. It also translates into a rising number of people kidnapped and murdered by pirates. And, finally, it produces on a world scale the “broken windows” effect of encouraging crime, disorder, and anarchy, so that a liberal commercial civilization becomes much less stable, much more costly, and ultimately much less prosperous. Commercial civilization depends in the end upon the demonstrated willingness to use force.

These truths have finally dawned on the great powers. In the last few years nations as different as China, Russia, France, India, Britain, and the U.S. have jointly and individually sent warships into the waters off the Somali coast to fight the pirate threat. The U.N. Security Council has called on nations with ships in the area to suppress piracy. An arms embargo has been imposed on Somalia. A Maritime Security Patrol Area has been established by a multinational combined task force. All the

security measures in which Acronymia takes pride have been taken in the pirate-infested waters. Yet despite this impressive show of technical strength the number of pirate incidents has continued to rise. It is almost as if this display of power had failed to intimidate them.

That, of course, is exactly what has happened, and for good reason. As we have seen in other conflicts in recent years—currently, in some NATO forces in Afghanistan—the rules of engagement are counterproductive: Many navies participating in this armada are effectively prevented from defeating the pirates. The Law of the Sea, which governs the actions of some navies, holds that a patrolling warship must send a boat to a suspected pirate vessel and confirm its intent. Some navies have to land the pirates they capture on the African coast, where they promptly disappear. Others are forbidden to open fire on pirate vessels. Merchant ships are strongly discouraged from arming their crews or resisting the pirates—even though we admire the crew of Captain Phillips’s ship precisely because they regained control of their vessel by fighting for it. The 19th-century solution—namely, to wage war on the pirates as on an enemy power and destroy their property, ships, and villages—is mentioned only to be rejected. And these feeble half-measures are justified by a whole litany of excuses from politicians, lawyers, and ship owners to suggest that nothing can really be done about piracy except to avoid it if possible and to pay the Danegeld if not—or, just possibly, to bore the pirates to death with endless seminars on the new international law.

And piracy is not the only activity we thought the Victorians had vanquished forever that is making a comeback. Slavery too is returning—most visibly in the revival of what used to be called “the white slave trade” (i.e., sex trafficking). According to the State Department, between 600,000 to 800,000 people are trafficked for forced labor and sex worldwide each year—80 percent of them women and girls—and 14,500 to 17,500 trafficking victims are brought into the U.S. each year. Chattel slavery still exists, and it is spreading. According to the advocacy group Free the Slaves, the number of chattel slaves in the world today is the highest in human history (though also the lowest as a percentage of the world population). However the statistics are dressed up, they still amount to at least 27 million slaves—a number we would have thought unimaginable in, say, 1955. As the liberal civilization of the West recedes and begins to lose influence in world institutions, so some of the evils it fought start to revive.

Naturally the pirates and the slavers interpret all this to mean that they have sensibly engaged in low-risk but highly profitable professions. And until these two recent incidents, their judgment looked correct. We had heroes of skill, and heroes of courage, but no heroes of prudence. Now we have all three—and as a result civilization has won a modest victory. But will we continue to win victories against the reviving vices of barbarism? That will depend on whether we have the firmness to enforce the truths of our liberal civilization on anarchy, violence, cruelty, and oppression—or, instead, choose to slip back into defending ourselves with empty words and legalistic maneuvers. In making that choice over the next eight years the president will be pulled in two quite opposite directions—both confusingly signposted “liberalism.” It will be interesting to see which way he prudently jumps.

NR



The Long View

BY ROB LONG

Larry King Live!

TRANSCRIPT:
APRIL 12, 2010

LARRY KING: Tomorrow night! Ryan Seacrest and last year's American Idol! From Edmund, Oklahoma, hello!

CALLER: Hi Larry. I just wanted to know if your guest has any regrets about his actions?

LARRY KING: Good question! Amadou! Regrets? You're out there in the Gulf of Aden, you're doing the pirate thing, and then suddenly, bam! You're in custody on an American battleship.

AMADOU: Yes, well, this is the timeline the media prefers. But what they never talk about is how I became a pirate in the first place. They never want to talk about root causes, Larry.

LARRY KING: Root causes! Interesting. So you don't think some people are just born pirates?

AMADOU: Oh, my, Larry, no. Not at all. This is what I talk about in my book. I have all of the scars and syndromes of a child who was raised in a failed state.

LARRY KING: Failed state, like New Jersey?

AMADOU: No. Somalia.

LARRY KING: Can't get much failed-er than that! From Portland, Maine, hello!

CALLER: Larry, I was wondering how Amadou feels about his capture and incarceration, now that he's out and on a book tour?

LARRY KING: How about it? Tough? Not tough? Was prison an okay experience?

AMADOU: Well, Larry, obviously

prison was an unpleasant time for me and my family. You have to understand, growing up like I did, in a failed state, we sort of took our freedom for granted. So to be plucked from the deck of a container ship without so much as a warrant or due process or—

LARRY KING: Um, you were a pirate, though, right?

AMADOU: What are we playing now, Larry? "Gotcha"? I don't want to get into semantics. I mean, what is a pirate, anyway? A pirate is simply someone who sees an economic opportunity in an unregulated environment and seizes it. In a way, I'm no different from the gang at Citigroup or AIG or any of those other organizations.

LARRY KING: But there was a trial, right?

AMADOU: If you can call it that. There was a jury and a lawyer and a judge, but I wasn't able to call my key witnesses—

LARRY KING: Former vice president Dick Cheney?

AMADOU: Correct. I was going to put the whole system on trial.

LARRY KING: Woulda been hot!

AMADOU: And I wasn't allowed to live-blog it for the *Huffington Post*. So it's hard to call that justice.

LARRY KING: A pirate blogger! Pirate dot org! The Web has changed everything!

AMADOU: As I say in my book, I'm not excusing my actions. I'm just providing a context for them. In my book I talk about how my four months in prison were a terrific reflection time, kind of a "me" time, where I could sit quietly after yoga class and journal a lot of my feelings. And it was there that I really connected to the anger I felt at people like Cheney and Halliburton and my dad and stuff. And so

when I sat down to write my book, it all came pouring out.

LARRY KING: Suzanne Somers said the same thing to me last week!

AMADOU: She's become a dear friend.

LARRY KING: So, now with the book and the movie, I'm guessing pirating is a yesterday thing?

AMADOU: Well, Larry, I've learned never to say never!

LARRY KING: I love it! It's all about options! From Chino, California, hello!

CALLER: I've got two questions, Larry. Will Amadou ever write another book, and will he tell us his full name?

LARRY KING: How about it? Another book in you somewhere?

AMADOU: Well, I can't really go into it right now, Larry. We're having discussions, is all I can say. The next book, if it comes, will be more of a lifestyle kind of thing. Tips and fitness information and whatnot. The pirate lifestyle is something people are interested in.

LARRY KING: Like Martha Stewart! Who also went to jail. And Rachael Ray! Who, to my best understanding, has not yet been convicted of any crime, is that right?

AMADOU: I believe not.

LARRY KING: What about the name? We're sticking with the one-name deal? I admit, it's catchy.

AMADOU: Honestly, Larry, when you grow up poor like I did, sometimes you can't really afford more than one name.

LARRY KING: Like Cher!

AMADOU: She really is an inspiration. I'm going to meet her next week when I'm in L.A. Sean Penn is throwing a thing for me.

LARRY KING: This weekend! Dog whisperer Cesar Millan! And Joyce DeWitt!

Books, Arts & Manners

Western Civ

JOHN J. MILLER

WHEN the Reagan Ranch went up for sale in 1996, Nancy Reagan left behind most of the furniture and linens but removed a number of personal items. She didn't want them falling into the hands of strangers. After Young America's Foundation bought the home, however, she sent back artwork, silverware, and other effects. YAF had promised to preserve the property, and the former first lady thought that many of the family belongings should be saved along with it.

Today, a visit to the Reagan Ranch—the so-called Western White House, near Santa Barbara, Calif.—is a journey back to the 1980s. It's possible to see the trails Ronald Reagan rode on horseback, the tools he used for clearing brush, and the chairs he rested in. The bookshelves hold 247 volumes by the likes of William F. Buckley Jr. and Whittaker Chambers. Almost all are the actual copies that Reagan read. Yet five titles by western novelist Louis L'Amour are duplicates. The originals remain at the Reagan home in Bel Air.

"Because Louis L'Amour was my husband's favorite author, I decided to keep his books at the house with me instead of returning them to the Ranch," says Nancy Reagan. Four of the books are fiction: *The Lonesome Gods*, *The Walking Drum*, *Last of the Breed*, and *The Haunted Mesa*. One is a memoir: *Education of a Wandering Man*. In addition, there's a complete set of hardcover L'Amour novels behind the president's desk in the private quarters of the Reagan Library in Simi Valley.

In one sense, Ronald Reagan's admiration of Louis L'Amour was perfectly ordinary. L'Amour was one of the most successful writers of the 20th century. More than 300 million copies of his books are in print, according to Bantam, his longtime publisher. The next one—a

collection of hard-to-find short stories—will come out later this year. L'Amour had herds of fans, and they're loyal: About one-third of his total sales have taken place since his death in 1988. Other presidents have enjoyed his stories, too. Dwight Eisenhower is said to have passed on his copies to Secret Service agents. Gerald Ford and Jimmy Carter are known to have read L'Amour's books as well.

Yet Reagan went out of his way to celebrate L'Amour. In 1984, he awarded L'Amour the Medal of Freedom. A year earlier, he presented the author with a Congressional Gold Medal—up to that point, the only other writer to have received it was Robert Frost. The presentation took place at a rodeo performance on the south lawn of the White House. It was the first time the president and the author met. At the ceremony, when Reagan asked L'Amour to step forward, he pivoted in the wrong direction. L'Amour was on his other side. Reagan recognized his mistake and turned around. "There you are," he said. "You sneaked up on me, just like, you know, Bowdrie." The reference was to Chick Bowdrie, a Texas Ranger who was one of L'Amour's recurring characters.

Many conservatives have a pronounced tendency toward eggheadedness. Portraits

of figures such as Friedrich Hayek and Russell Kirk line the hallways of the Heritage Foundation, not images of best-selling novelists. To be sure, Reagan was broadly familiar with right-of-center intellectuals. His appreciation of L'Amour, however, may reveal something important about his success as a politician—and hold lessons for conservatives who would like to see it repeated.

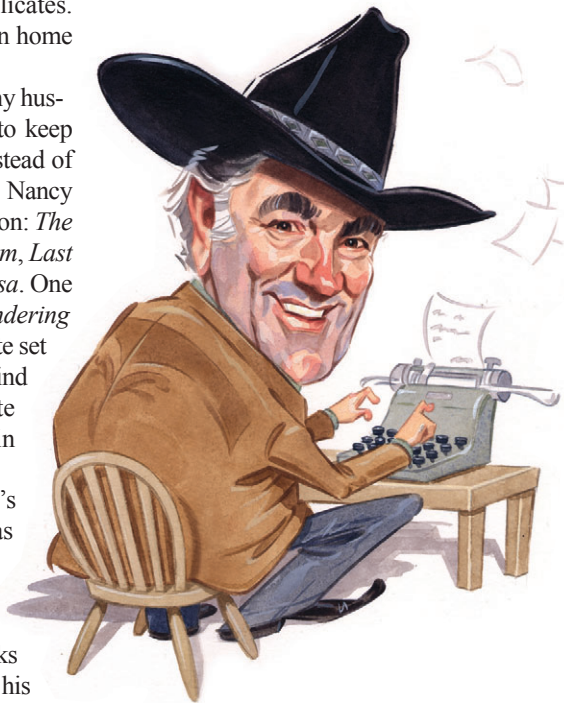
Louis Dearborn LaMoore was born in Jamestown, N.D., in 1908. In the tenth grade, he dropped out of school and never went back. Hard times played a part, but years later he insisted that he wasn't learning enough: "School was interfering with my education." He left home and began a long period of wanderlust. He skinned cattle, cut logs, handled circus elephants, boxed for cash, and traveled the world as a merchant seaman. One time, after a hurricane ripped through the Caribbean, he found himself stranded on a reef—a real-life Robinson Crusoe, at least for a few days. He was soon rescued by a sponge fisherman. L'Amour eventually changed the spelling of his name to its French ancestral form, demonstrating an awareness of history that would shape his work as a fiction writer.

During these "knockabout years," as he called them, L'Amour pursued an informal education—and displayed the strong sense of self-reliance that would animate so many of his fictional characters. On a freight train leaving El Paso, a hobo handed him one of the Little Blue Books

published by E. Haldeman-Julius—cheap editions of classic works, and a pillar of middlebrow culture in the 1920s and 1930s. L'Amour went on to devour the plays of Shakespeare, the stories of Jack London, and the essays of Voltaire. He kept long lists of the books

he read: more than a hundred per year and always eclectic. "The idea of education has been so tied to schools, universities, and professors that many assume there is no other way, but education is available to anyone within reach of a library, a post office, or even a newsstand," wrote L'Amour in *Education of a Wandering Man*.

L'Amour finally settled down, with an eye toward establishing himself as a writer. In 1935, he sold his first short story



Louis L'Amour

to a pulp magazine called *True Gang Life*. More sales followed, but it wasn't until after World War II—he was drafted and served in Europe—that his career took off. An editor suggested that he try westerns, an increasingly popular genre. L'Amour took the advice. He wrote four Hopalong Cassidy novels under the pseudonym "Tex Burns" and also published under his own name.

In 1952, *Collier's* printed a story called "The Gift of Cochise." John Wayne read it, loved it, and bought the film rights. The next year, Wayne starred in *Hondo*, based on L'Amour's tale. On the day of the movie's release, L'Amour's novel of the same name appeared in bookstores with a glowing endorsement from Wayne on the cover. It involves a dispatch rider who carries news of an Apache uprising, and what happens when he comes across a lonely woman trying to homestead with her young son in the middle of what will soon be a warpath. Today, the book is widely regarded as not only one of L'Amour's best, but one of the finest westerns ever written.

L'Amour was nothing if not productive. He wrote more than a hundred books, sometimes three or four in the same year. When he finished one, he would pull the last sheet of paper from his typewriter—he was a two-fingered hunter and pecker—and start the next, even on the same day. L'Amour maintained that although he conducted background research for his books, he didn't plot them out in advance. He concentrated on what he called his background "canvas" by reading the journals of settlers and visiting the specific areas they sought to tame. Then he would concoct a harrowing situation—he aimed to hook his readers on the first page—and more or less make up his story as he wrote.

If the quantity of his output was enormous, the quality was uneven. Some novels, such as *Hondo* and *Flint*, are classics of the form. They deserve a place beside Owen Wister's *The Virginian*, Jack Schaefer's *Shane*, and Zane Grey's *Riders of the Purple Sage*. Others are more forgettable. L'Amour, for his part, bristled at the notion that he was a mere genre writer. He saw himself as a historical novelist who specialized in tales of the frontier, where men and women struggled to build something new and good in a place in which civilization's hold was weak. In his 17-novel chronicle of the Sackett family,

the clan starts out in Elizabethan England, crosses the Atlantic to the New World, and journeys ever westward, always on the fringe of society.

Many of L'Amour's books have so much in common that they can be difficult to tell apart. A few of the titles don't help: There's *Kilkenny*, *Killoe*, and *Kilrone*, for example. His novels are full of brief historical asides, geographical observations, and survival tips. It would be wrong to say that L'Amour's characters never evolve during their adventures, but his typical protagonist begins a story with a set of principles, applies them to a series of challenges, and then emerges with those principles affirmed rather than shaken or mocked.

Moral ambiguity didn't interest L'Amour. He had a clear sense of right and wrong: People should build rather than destroy, protect the innocent and vulnerable, and recognize that law and order can descend into chaos and barbarism with savage swiftness. L'Amour also didn't write sex scenes, which made him a bit of an outlier among the popular novelists of his time. He called sex "a leisure activity" and said he had more important things to write about: "I am concerned with people building a nation, learning to live together, with establishing towns, homes, and bridges to the future."

When Reagan was recovering from cancer surgery at Bethesda Naval Hospital in 1985, newspapers reported that he was reading *Jubal Sackett*, which had just been published. L'Amour then sent the president a copy of *Frontier*, his coffee-table book of essays and photography. From the ranch, Reagan wrote back: "I've read many of your books, and especially enjoyed reading some of them during my recent convalescence from surgery. They've truly been a great form of relaxation for me."

Mark Twain once said that a classic is a book that people praise but don't read. A novel by L'Amour is almost the opposite: a book that people read but don't praise, at least not in the company of sophisticates because it invites their scorn. For many of Reagan's liberal adversaries, the president's fondness for L'Amour's books confirmed their cherished picture of him as a cowboy-loving simpleton. Sometimes conservatives piled on. "By all means, read westerns, Mr. President, but why Louis L'Amour?" wrote George Will. "He is a pale writer."

Will was punning on *Pale Rider*, a western movie starring Clint Eastwood that had come out around the time Reagan was turning the pages of *Jubal Sackett*. Maybe the columnist had sampled one of L'Amour's lesser works. Whatever the case, pale writers sometimes obtain faddish commercial success. They rarely secure a lasting place in the culture. L'Amour's ongoing popularity is perhaps best understood as an expression of American folk wisdom, and the abiding appeal of the author's standard themes of patriotism, freedom, moral uprightness, and hard work.

Reagan achieved his own success because he sounded similar notes in the arena of politics. L'Amour, in fact, was a registered Democrat. "We're not Republicans," says his widow, Kathy. "But we did vote for Ronald Reagan twice. I guess we're Reagan Democrats. We always felt he was so good for the country." Reagan believed L'Amour was good for the country. When the author died in 1988—of lung cancer, even though he wasn't a smoker—Reagan recorded the news in his personal diary. Two days later, he called Kathy to offer his condolences.

A display at the Reagan Ranch Center—a museum in downtown Santa Barbara as well as staging ground for visits to the actual ranch up in the hills—features several books that were important to Reagan. One of them is L'Amour's novel *Last of the Breed*, published in 1986. It isn't a western at all, but a story about U.S. Air Force Maj. Joseph Makatozi, who is captured by the Soviets during the Cold War. He breaks out of his Siberian prison and begins a harrowing trek through the wilderness, pursued by agents who don't want him to escape alive. Many readers say this is their favorite book by L'Amour, and it may very well have been Reagan's.

When a Soviet interrogator learns that Joe is of Sioux and Cheyenne extraction, he tries to turn his hostage against his native country. He accuses the U.S. government of having stolen land from Joe's ancestors. Then he suggests that Joe has nothing to return to, because he isn't married and his parents have passed away. "To your country, Major, you are already dead," says the Soviet. "At home you have no ties." Joe snaps back: "You forget the most important one, Colonel. There is my country."

Some people still call it Reagan Country. **NR**

Trail Blazer

FLORENCE KING



Bad Girls Go Everywhere: The Life of Helen Gurley Brown, by Jennifer Scanlon
(Oxford, 288 pp., \$27.95)

WE live in the age of the full disclosure, so I am obliged to issue one about this biography of *Cosmopolitan* magazine's legendary editor: I'm in it.

Commenting on Helen Gurley Brown's firm belief that what men don't know about a woman's sexual history won't hurt them, her biographer Jennifer Scanlon writes: "Her all-time favorite *Cosmopolitan* piece, 'The Contraception Capers,' offered a humorous 1970s look back on sexual practices during the 1950s." It was about birth control before the Pill and my original title was "The Sperm and I." I liked mine better and so did Helen, but she decided that it was too explicit for "upstairs," as she called the always-nervous Hearst executives, so she presented them with a toned-down title before they had a chance to object. As one of the editors later explained, this etched in their minds a portrait of a suddenly self-chastened Helen, rendering them sufficiently *hors de combat* long enough to enable her to get the entire explicit article into the magazine without being challenged.

Helen Gurley Brown combines the deftness of a Talleyrand with a compulsive girlishness that, during her 32 years as editor-in-chief, made her italicize every word having the slightest emotional context and decorate *Cosmo's* breathless copy with strings of exclamation marks. To

call her a study in contradictions is an understatement because there are more than two of her, but Jennifer Scanlon never meets an incarnation that fazes her in her recounting of what she calls a "delightfully knotty life story."

Now 87, HGB has been kicked upstairs to the post of *Cosmo's* international editor at a salary of \$2 million a year, but she could match any politician in the poorer-than-thou campaign testimonial. Born in Green Forest, Ark., a tiny town in the Ozarks, she has frequently said: "I had no money, no college degree, an average IQ, wall-to-wall acne, and my family were hillbillies." They weren't. Her mother, whose family traced itself back to the earliest Spanish explorers, taught school. Her paternal great-great-grandfather's will left 13 slaves to his widow; her father graduated from law school, served as Arkansas fish-and-game commissioner, and was elected to the state legislature, where he voted against the women's suffrage amendment. He was getting ready to run for secretary of state when he was killed in a freak elevator accident in the state house when Helen was ten.

Hard times followed. Her older sister caught polio and was permanently paralyzed. Her shellshocked mother took in sewing for a while, then moved herself and her daughters to Los Angeles and fed her resentment by running down Helen's looks. At this, the lowest point in her life, she was what Southerners call a "poor thing" and what she, years later, called a "mouseburger"—the kind of girl she would inspire, instruct, and build up, first in her bestselling 1962 book, *Sex and the Single Girl*, and then in the pages of *Cosmo*.

She did not remain a mouseburger for long. The acne cleared up and, by dint of sheer determination and charm, she became one of the "in" crowd at her Los Angeles high school. And though she would continue to lay claim to a mediocre intellect, she was valedictorian of her 1939 class back when Los Angeles had one of the finest school systems in the country. It was at this time that she threw off her mother's power to erode her self-confidence. She had bettered herself by trying her damndest. Meanwhile her mother, instead of setting her cap for an alpha male who could take care of her, had given up and married the Good Humor man.

Unable to afford college, Helen went to business school and began the climb up

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the office ladder, in one of the few white-collar occupations then open to women. She had 17 secretarial jobs before landing as a copywriter at the Foote, Cone & Belding ad agency. Years later she would tell an interviewer, “I’ve never worked anywhere . . . without being sexually involved with somebody in the office,” so we can simply count her jobs, or we can see what she said when she was more passionately aroused: “Use your own guts and energy to improve yourself, your job, your intellect, and every other possible thing. You can’t sleep your way to the top or even to the middle, and there is no free lunch. You have to do it yourself, so you might as well get started.”

Scanlon calls this “Horatio Alger feminism,” designed to appeal to the young, lower-middle-class, non-college women who read *Cosmo*. It was one of the three trajectories of feminism that competed in the period starting in the 1960s. Another was Betty Friedan’s Feminine Mystique feminism, driven by the “problem without a name,” i.e., the vapidness of suburban life endured by college-educated women who felt their education and talents going to waste in wife-and-motherland. A third was Movement Feminism, the left-wing variety promoted by *Ms. Magazine* that coined “sexism,” “sex object,” and “male chauvinist” and held workshops on the evils of capitalism.

It was inevitable that HGB would clash with the Movement. She regularly enraged them with statements like “If you’re not a sex object, you’ve got trouble” and—when they called cosmetics unnatural—“Cosmetics were never meant to be natural, and men have always known it is fun to be fooled.” But what really made her lose her cool was their campaign to stamp out sexual harassment. This involved sacred ground because most sexual harassment happens in offices. A *Cosmo* Girl without an office is like Bwana without a game preserve. There must be great herds of rutting wildebeest stampeding out of elevators, thundering down tiled halls, headed straight toward the sleek, tawny lionesses lurking in wait for them. If there aren’t, you’ve got trouble.

The threatening possibilities unraveled HGB to such an extent that she told, publicly, a nostalgic story about a good-natured game called “Scuttle” they used to play at a radio station where she had once worked. The men would chase the female employees around the office and try to pull off their panties. This, she averred, was just friendly sexual teasing and feminists were taking it far too seriously.

You can take the girl out of the South but you can’t take the South out of the girl, at least not entirely. HGB possesses an instinctive, kneejerk patriotism; during the debate over drafting women she said she

would willingly die for her country. But the rest of her politics have undergone a sea change that Scanlon describes in one of the book’s most fascinating passages:

Her leanings were from the start conservative if not libertarian in their favoring of the free market. “I believe so devoutly in the private enterprise system,” she stated, but ultimately feminism complicated her relationship to the American political system. . . . For much of her adult life, [she would] swing her vote from Republican to Democratic candidates as issues moved her. In the end, though, her political leanings were socially liberal and fiscally conservative, so as the Republican party moved further to the right she found herself, somewhat to her surprise, moving further toward the Democratic party. The abortion question in particular piqued her, and although she initially voted for Ronald Reagan because of his adherence to strict definitions of the free market, she found it difficult to fathom how someone so enamored of liberty came out against abortion rights. Her own stance on abortion, among the most liberal in circulation, would steer her so clearly toward the Democrats that in later life she would be more likely, regardless of her feelings on other issues, to vote Democratic. By 2007, when . . . asked by *Vanity Fair* magazine to name the living person she admired most, she would, without hesitation, choose Bill Clinton.

Jennifer Scanlon delivers Helen Gurley Brown’s “delightfully knotty life story” in a neat and satisfying package, notwithstanding the contradictions that—she admits—leave her puzzled. As she notes, in a felicitous phrase: “The gift of biography is that it allows these various stories to tangle with each other.” A professor of gender and women’s studies at Bowdoin, Scanlon rescues the reputation of her own field, long notorious for its droning manifestos, with her witty and consistently readable literary style. This is not an authorized biography; Helen Gurley Brown has not read it, but she granted the author permission to quote from her published and unpublished writings covering her childhood up to the present, now stored in 47 boxes of literary papers at Smith College. In other words, this is not chick lit but cultural history, the first serious biography of the woman who, in Scanlon’s view, “ushered in and has long continued to define the feminist mainstream.”

NR

TRINITY

I saw a small boy on a back lot in New York,
Crouched, burning flies alive in a sealed jar
With a magnifying glass he held up high,
Focusing the fire of our companion star.

Dispassionate, like mischievous boys ourselves,
Out in the desert, quarantined, sealed off
From humanity, as if we bore the plague,
Like lepers to the locals, treated rough.

Prometheus pilfered fire from the gods
Hid in a fennel stalk to help mankind;
Which proves the gods at times can be outfoxed
Or even conveniently be stricken blind.

The dawn of a new age or the death of one
—Can blinded prophet or Cassandra tell?
As here we toss this sop to Cerberus,
His three heads barking at the gates of Hell.

—RICHARD O’CONNELL

Art

A Dutch Master Rediscovered

ROGER KIMBALL

IN his classic essay "Of the Standard of Taste," David Hume asked how we could tell whether a given work was a masterpiece. "Durable admiration" was the criterion he offered. Which is to say, it's not so much *our* judgment as the judgment of the ages that does the sifting. Faced with the work of our contemporaries, we can announce our likes and dislikes, but we must wait upon the dispassionate adjudications of time to arrive at any authoritative discriminations. When it came to matters of aesthetic judgment, authority, for Hume, was largely a posthumous energy.

I thought about Hume's thesis as I made my way through one of this season's most engaging exhibitions: "Jan Lievens: A Dutch Master Rediscovered." I saw the show twice, once at the National Gallery in Washington and once at the Milwaukee Art Museum, where it is on view in Santiago Calatrava's dramatic building until April 26.

My guess is that, unless you are an expert in 17th-century Dutch painting, you have never heard of Lievens (1607–74). I hadn't, or if I had, I promptly forgot the name. Yet during his lifetime, Lievens was widely considered the equal if not the superior of his friend and fellow Leiden-born artist Rembrandt. The diplomat and cultural impresario Constantijn Huygens, who met them both in 1628, decided that Rembrandt was "superior to Lievens in his sure touch and liveliness of emotions" but that Lievens displayed "greater . . . inventiveness and audacious themes and forms."

This exhibition of some 140 paintings, etchings, and drawings aims to promote Lievens from his tenancy among the footnotes of art history to an honored place in the main text. Even a quick look at Lievens's work shows that some such corrective is long overdue. The temptation of

course lies in overstating the case. This is something that the curators by and large avoid. Their goal is to rescue Lievens from unjust obscurity, not to elevate him beyond his deserts.

The story of Lievens's reputation offers a fascinating study in the vicissitudes of popular taste. A year younger than Rembrandt, Lievens was clearly the more precocious of the two. Indeed, Lievens began his career as a sort of Mozart of the art world, setting up shop at the age of 12. By 14, he was producing virtuoso works. By 16, he was capable of paintings like *The Cardplayers*, a work of considerable psychological penetration—the loser's cuirass cannot defend him against the assaults of bad luck—as well as astonishing technical command. (The smiling chap with the blue sash and pipe, by the way, is almost certainly Rembrandt.)

In the scheme of things, the 1620s were not so long ago. But obscurity colludes with the voracious amnesia of time. Our knowledge of Lievens's life and career consists of a dozen visible milestones interspersed by numerous question marks. We know the basic itinerary. A notable debut in Leiden. To London when he was 24: another brilliant performance, with com-

missions from Charles I and the Earl of Arundel. Lievens learned a lot about portraiture from Anthony van Dyck (b. 1599), who included him (but not Rembrandt) in the *Iconography*, his famous visual chrestomathy of notable artists.

The word "peripatetic" occurs frequently in discussions of Lievens. In 1635, he went to Antwerp, where he developed a more cosmopolitan style—what the curators refer to as an "international style"—absorbing something of the drama of Rubens, the elegance of Titian. The year 1644 found Lievens in Amsterdam, where Rembrandt's star had risen and, following the death of his wife Saskia, was beginning to fade. He went to The Hague in 1654, back to Amsterdam in 1659, and then back to Leiden.

Lievens never achieved the celebrity or the riches that Rembrandt enjoyed at the apogee of his career, but like Rembrandt he died in poverty. In 1674, in his late sixties, he went back to Amsterdam with all his worldly goods in tow. His landlord refused to let him in without a deposit. He died in June, halfway to the obscurity that awaited him. *Vita brevis*, and *ars* only sometimes *longa*.

History's radar is not usually precise

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about figures such as Lievens. We know he was born of (as a contemporary patron put it) “respectable parents”—his father was a moderately successful embroiderer—in Leiden. We know he studied with Pieter Lastman, who was also Rembrandt’s teacher. We know that he and Rembrandt were friendly rivals. Did they briefly share a studio in Leiden? We aren’t sure. But their friendship shows itself in Lievens’s sympathetic portrait of Rembrandt (1629), and in the frequency with which he included him in his early canvases. The rivalry peeks out in other ways. At the instigation of Huygens, Lievens and Rembrandt painted several paintings on the same themes: the raising of Lazarus, for example. Rembrandt admired Lievens’s treatment suffi-



The Cardplayers, ca. 1623–24

ciently to acquire the canvas for his own collection. But Rembrandt was not above backdating some of his own work, presumably to suggest that he had pioneered rather than followed in the exploration of certain themes and modes of painting.

You cannot walk through this exhibition without acknowledging what the curators set out to teach you: that Jan Lievens was an extraordinary artist whose work encompassed history painting, Biblical allegory, landscape, and portraiture. Portraiture, in fact, was Lievens’s special strength. He had a knack for animating faces with character, and this exhibition features several memorable portraits. A drawing of René Descartes (mid-1640s), for example, depicts a more vulnerable, less stately personage than the famous oil portrait of the philosopher by Frans Hals, while Lievens’s portrait of Anna Maria van Schurman (1649), the first woman to attend university in the Netherlands and herself an accomplished

artist, is a study in warmth and delicacy.

Is Lievens set to become a household name like Rembrandt, Rubens, Titian, and van Dyck? No. In his excellent introductory essay for the catalogue, Arthur Wheelock remarks: “The cruel irony is that Lievens’s artistic achievement, whether in assessment of individual works or his entire oeuvre, has come to be considered almost exclusively in relation to Rembrandt during his early Leiden years.” This exhibition both underscores that irony and inspires a new appreciation for the wisdom of tradition.

Wheelock offers several reasons for Lievens’s failure to enter the canon as conspicuously as Rembrandt. He was a Dutch artist who rarely painted in the Dutch style. He exuded brio, but not clarity or precision. He was adept at creating effects, but Wheelock is right about a “labored” quality to his modeling and sometimes “muddy” paint handling.

Lievens was good at inveigling commissions from the great and influential. He endeavored mightily to give them what they wanted, which helps account for his immediate success. He was less skilled at inveigling a consistent artistic vision from himself. He was something of a chameleon, not in the sense of changing frequently—though he did that as well—but in the sense of absorbing influences promiscuously. The word “Rembrandt” adumbrates a mood, a quality of perception, as well as a particular artist. There is no correlative sensibility that we can attach to Jan Lievens. He was too miscellaneous in his achievement.

His technical mastery was dazzling, and always brash. Constantijn Huygens accused both Lievens and Rembrandt of “stubbornness” and an excess of “self-confidence.” But Rembrandt negotiated that final hurdle to greatness that Lievens never managed: He matured into himself. Lievens never quite stopped being precocious, which means that there always remained something penultimate about his development. He was bursting with talent, fired by ambition, buoyed by that self-confidence that Huygens registered. But there was an omnivorousness about Lievens that impeded him from evolving from the propaedeutic activity of mastering styles to the consummate achievement of creating one. Arthur Wheelock and his colleagues have done yeoman’s service recovering Lievens from the margins of art history. **NR**

Travel

The Hills Are Alive

JAY NORDLINGER

Augusta, Ga.

I WOULD be embarrassed to admit how big a part the Masters has played in my life: in my mental life, and, to a degree, my writing life. I’m talking, of course, about the tournament held every April at the Augusta National Golf Club.

Over the years, on practice ranges far and wide, I have “played” holes at Augusta National. This relieves the tedium of practice. I take the clubs I believe will be necessary on each hole. For example, I’ll take a 6-iron on 16 tee—aiming for the traditional Sunday pin position. And, at night, I compete in the Masters, as I’m drifting off to sleep. Often, I’m head to head with Tiger. Strangely, he loses.

I am not alone in this, by the way—this Masters fantasizing. In fact, it is a pretty common condition. I can introduce you to many others who suffer from it, or rather, enjoy it.

Like them, I have watched the Masters on television from an early age. I remember the tournaments more than I do Christmases, and probably as much as I do presidential elections. Seve slashing his way around the course. Mize chipping in on Norman. Lyle coming out of the bunker. Floyd hitting it into the water on 11. And, above all, Nicklaus winning the tournament in 1986, at the age of 46. (He was the oldest Masters champion ever.) I will never forget watching the final round unfold, as I sat in my dorm room. That was an afternoon of utter amazement and jubilation.

The next Sunday, in the same room, on the same television, I watched Horowitz return to Russia, for the first time in over 60 years. I was extremely nervous as he played—as I had been when Nicklaus played. But, like Jack, he triumphed. A couple weekends later, Willie Shoemaker

was the winning jockey in the Kentucky Derby, at 54. That was a thrilling, odds-defying spring.

I have written about the Masters a lot—a whole lot: about its history, its politics, its aura. You could even speak of its spirituality. You can write drippily about the Masters, and I hope I have not done that. But it's hard not to drip at least a little. There are things about the Masters that irritate me, because there are things about virtually every institution that are irritating. For example, the Augusta brass insist that television commentators refer to the fans, not as fans, but as "patrons." Yeah, well, whatever. But we can live with some silliness and quirks.

From a lifetime of immersion, I feel like I know every blade of grass at Augusta National. In my mind, I have practically lived in the Eisenhower Cabin. And yet I have never been there—never been to Augusta. I'm like Ruth Benedict (if I may), who wrote her book about Japan, *The Chrysanthemum and the Sword*, without ever visiting there. (This was a wartime assignment.) Don't let anyone fool you: That's a very good book. Where Augusta is concerned, I even know what's supposed to surprise the first-time visitor: the hilliness of the course, for example. It's a lot hillier than you think.

I will soon find out for myself—because I'm going to Augusta National, to witness this year's Monday practice round. Will it spoil things for me, somehow? Will any harm come from setting foot on the course that has loomed so large in my imagination? Moreover, do I really *need* to go to Augusta National, given how much I know?

In any case, I am going. And I know that you can be surprised by things that you think you're already plenty familiar with. I was shocked by the pyramids—shocked by their size, their gargantuan, heaven-reaching size, and their mystery.

I fly into Augusta's little airport, here in east-central Georgia. The building looks like an old mansion, with its pillars. Inside is a cardboard mockup of 13 green. Once outside, I sniff the air, which smells marvelous. Or maybe it's just that I've come from Manhattan. Also, a huge American flag billows in the wind. A friend and I take the Bobby Jones Expressway to our hotel, and wait for the next day.

Monday dawns inclement, but everyone is eager, and the weather will soon clear anyway. Along Washington Rd., a gas-station marquee reads "WELCOME PATRONS." So everyone's obedient, huh? People seeking tickets line the road, up and down. One man holds a sign that reads, simply, "HELP!" Our hotel shuttle van will not be able to enter Augusta National down the fabled Magnolia Lane. We are dropped near a Publix grocery store—but that's all right.

Though this is first thing Monday morning—three days before the competition begins—the place is jammed. Security lines are very long. Oddly, we did not have this at the Buick Open in Grand Blanc, Mich. (my home-state PGA tournament). As you approach security, you see a sign listing prohibited items: cellphones and the like. The last item is "Knives/Weapons." Really? Augusta is not as conservative a place as people think.

The workers could not be more polite, saying, "Welcome to the Masters." "Enjoy the Masters." "Have a great day." They give you a tournament booklet, as decreed by Bobby Jones, the founder. Inside the booklet is an essay by him on how to watch the tournament: "Spectator Suggestions." It holds up, beautifully.

On first sight of the course, my heart kicks a little. I'm reminded of my first visit, in childhood, to Tiger Stadium. These days, the sight of Detroit will make you weep for other reasons. I walk past the clubhouse and see a chef in a tall, tall toque. Beyond the clubhouse is Ike's Cabin—you can tell by the presidential eagle. And near it is the Butler Cabin, where you put on the green jacket. (Well, maybe *you* don't, but a select group of others do.)

Gary Player is practicing from the bunker. He was the best bunker player in the world, before every other pro got wise. Now they're all bunker virtuosos. As he practices, Player actually skulls one—which is kind of refreshing to see. It comforts the masses when a pro hits a mere-mortal shot.

Out on the course, you encounter the "pine cathedrals" of legend. And the azaleas "blaze." (That's the word every golf writer uses, writing about Augusta National and its azaleas.) Is anything surprising? Yes, some things. For



example, I hadn't realized that No. 10 bends to the left like that. And I see that it's a considerable challenge not to hit it into the water on 11: Everything slopes that way. But, I have to tell you: I have heard so much about the hills of Augusta that the course is actually a bit less hilly than I expected.

There is no gouging at Augusta: oh, no. The sandwiches still cost \$1.50, and they're still wrapped in the light-green cellophane. At Amen Corner, I have a meal of a pimento-cheese sandwich, potato chips, a Diet Coke, and a moon pie. Total: \$4.50. Life has tossed me in some pretty fancy and expensive restaurants. I have never had a more satisfying meal.

From time to time, I have said about Salzburg, Austria—where I am a frequent visitor—"Every place you rest your eye is a treat. At every turn there is beauty." The same is true of Augusta National. But speaking of Salzburg, I now have to go there, to work at the Easter Festival. And I will not be able to watch a shot of this Masters tournament—not a shot of the competition. Instead, I'll have to do what I do in the month of August, while working at the summer festival. During this time, the PGA Championship takes place.

There is no telecast in Austria. The webcasting doesn't work either, for some reason. So what I do is: go to the appropriate website and refresh the leaderboard, constantly. It's kind of fun, actually.

Oh, you'll want to know: Did I see him? Did I see Tiger at Augusta? No. I've written about him almost as much as I have about Bill Clinton, or George W. Bush. And I've never laid eyes on him. But I expect to someday—expect to interview him, too. And I imagine that will be an enhancement. As this visit to Augusta National has been. It is a good place—worth dreaming about.

NR

Film

Epic in Miniature

ROSS DOUTHAT

IF you wrote a capsule summary of *Sin Nombre*, a riveting melodrama set in Honduras, Mexico, and (ever so briefly) Texas, it would be easy to make the movie sound like an earnest snooze. “In a film made without professional actors and shot entirely in Spanish, Central American migrants experience hardship and solidarity in their long quest to reach the United States” would do the trick, I think—especially if you threw in the film’s backstory as the thesis project of a precocious half-Japanese, half-Swedish northern Californian named Cary Joji Fukunaga, and noted that it earned raves and prizes from the socially conscious jet-setters at last year’s Sundance Film Festival.

But if you ignore the movie’s provenance and just translate the title into English, you’ll have a better sense of what Fukunaga’s movie is all about. *Sin Nombre* means “Without a Name,” three words that conjure, tersely, the archetypes of the American West, and the long shadow of Clint Eastwood and Sergio Leone. And the movie vindicates these allusions. The gritty social realism that its subject matter promises is interwoven with a bloody, Biblical narrative about honor

and brotherhood, love and murder, in which cycles of revenge and redemption churn like the wheels of the train that carries the migrants toward the Rio Grande.

Sin Nombre starts slowly, in the Honduran capital, Tegucigalpa, and the dirt-poor Mexican state of Chiapas, taking its time introducing the two families whose unexpected intersection drives the plot. The Honduran family belongs to the teenage Sayra (Paulina Gaitan), whose widowed father (Gerardo Taracena), gone from her life for years, has just been deported home from the distant promised land of New Jersey, where he’d acquired a new wife and several children. Their reunion is awkward, but not awkward enough to dissuade Sayra from accompanying him and her uncle Orlando (Guillermo Villegas) when they set out for the United States once more, slipping across the borders into Guatemala and then into Mexico, where a trainyard in Chiapas provides a jumping-off point for the host of migrants heading north.

It’s also where their paths cross with the story’s second family, which is tighter-knit and considerably more terrible. This is the Mara Salvatrucha gang, known to many Americans as MS-13, which rules the barrios from Los Angeles—where it got its start in the 1980s, among Central Americans far from home—all the way to Nicaragua. In Chiapas, it’s enfolded the brooding Willy (Edgar Flores), who serves at the whims of a tattooed, bright-smiling boss named Lil Mago (Tenoch Huerta) and mentors a pre-teen would-be gangster named Smiley (Kristian Ferrer).

Enfolded, and entrapped. Willy, dubbed

“El Caspar” by his brothers in the gang, has moral qualms about the brotherhood he’s entered. You can see his alienation when its requirements are demonstrated, early on, by the violent hazing of the still-innocent Smiley—and then, in one of the movie’s few lurches into the cinema of exploitation, by the execution of an unarmed rival, and the subsequent appearance of his entrails in the slop buckets that feed the Mara’s dogs. What’s more, he’s fallen into the gravitational pull of a middle-class girlfriend, Martha (Diana Garcia), whom he visits on the sly, climbing into her pink-curtained bower for assignations, making love amid intimations of a different, better life.

In the heart of a discontented gang member, stirrings of conscience and a luminous bourgeois girlfriend make for a dangerous combination—dangerous enough, in fact, to create the sequence of unexpected events that throws most of the characters (most of the surviving characters, I should say) together on a train car, careening their way through the Mexican countryside, with various Mara Salvatrucha foot soldiers hot on their heels.

The twisty, jackknifing story that follows lends itself to plot summary only if you like to know going in who lives and who dies, so I’ll leave off summarizing there, and just promise that while you’ll probably see the final sequence coming, you’ll be reliably surprised—and reliably riveted—by everything that happens up till then.

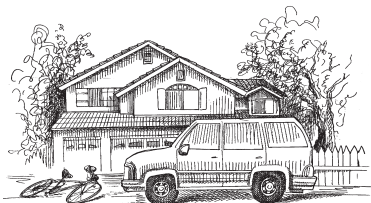
What’s more, you’ll be swept up in it. *Sin Nombre* has a shoestring budget but an epic feel. The camera follows the train, and rides it, devouring Mexico as it moves: mountains and rivers, vine-clotted buildings and crimson-dappled fields. Children run alongside, throwing fruit up to the migrants; later, a different group of children run alongside throwing stones. The heavens open, and the crowds on the train tops vanish under colored tarps and ponchos, like a field of flowers blooming under rain.

The performances are naïve, archetypal. The actors and their characters are adolescent, angst-ridden but unencumbered by deep complication. Their motives are primal and unsubtle: These are Romeos and Juliets, not Hamlets. They crave love, purpose, adventure, approval—and revenge. They get what they want; they don’t always like it. You will. **NR**

Sin Nombre’s Sayra (Paulina Gaitan) and Willy (Edgar Flores)



Juvenal Delinquent



JOHN DERBYSHIRE

I HAVE just recently finished writing a book about pessimism. Spare me the jokes, please. “A book about pessimism? Oh, that’ll never sell . . .” etc. By way of background research into some of the leading lights (darks?) of pessimism, I read Dr. Johnson’s magnificent long 1749 poem “The Vanity of Human Wishes” all the way through with attention. That led me on a journey back through time, from which I have only just returned. Here is my trip report.

Johnson’s poem is in Mona Wilson’s 1951 Harvard University Press selection of his writings. Ms. Wilson annotates nothing, though, so I had to resort to the Internet to find out, for example, whom Johnson meant by “the bold *Bavarian*” who “in a luckless Hour, / Tries the dread Summits of *Cesarean* Pow’r.” (It was the Holy Roman Emperor Charles VII.)

The poet’s aim is to disillusion us. Wealth? Political power? Military or intellectual glory? Long life? Beauty? Empty, all of them! After 344 lines of this, having reduced the reader to trembling nihilism, Johnson perks up with an appeal to faith, though of a stoical, almost fatalistic kind:

Still raise for Good the supplicating
Voice,
But leave to Heav’n the Measure and
the Choice.

...
Pour forth thy Fervours for a healthful
Mind,
Obedient Passions, and a Will
resign’d. . . .

Insha’Allah. To be fair to the great moralist, Johnson was a natural depressive, plagued by fears of madness, suicide, and—depending on his precise mood—either hell or blank annihilation. At the

time he wrote “The Vanity of Human Wishes” he was struggling with his monumental *Dictionary of the English Language* while trying to support a high-maintenance wife who had gone sexually cold on him and who was sinking into hypochondria and alcoholism.

The subtitle of Johnson’s poem is “The Tenth Satire of Juvenal, Imitated.” I knew of course that Juvenal was one of the Roman authors, and had very dim memories of construing bits and pieces of him in high-school Latin back in the Pleistocene Epoch. How close was Johnson’s imitation? I wondered.

Not feeling up to 300-odd lines of raw Latin, I at first went looking for translations. The Tory editor William Gifford had done one in 1800 that had drawn praise even from radical William Hazlitt, his bitterest enemy. (Gifford on Hazlitt: “the slanderer of the human race.” Hazlitt on Gifford: “His notions are low, upstart, servile.”) Dryden had turned out a translation in 1693. I downloaded both Gifford and Dryden from the Internet—how easy everything is nowadays!—and did some comparative reading.

Dryden was just phoning it in, though it’s hard to blame him for that. He was 62 when he did the translation, and had lost all his government sinecures through having converted to Roman Catholicism at the worst possible moment. Class will show, though, and he’s still by far the better poet of the two. Of handsome young men who rebuff the advances of older women, he says: “’Tis dangerous to deny the longing dame; / She loses pity, who has lost her shame.” Plonks Gifford: “A woman scorn’d is pitiless as fate, / For then the dread of shame adds stings to hate.”

You can spend only so much time with this stuff before curiosity wins out over fear of Latin. I got myself a Loeb Classical Library edition of Juvenal, with Latin on the left-hand pages and an English prose translation on the right. The translator was George Gilbert Ramsay, whose preface is dated 1918. *Mulier saevissima tunc est / cum stimulos odio pudor admovet*, goes the cougar warning in Latin: “Never is a woman so savage as when her hatred is goaded on by shame,” Ramsay translates. I wrestled briefly and futilely with the Latin—shouldn’t *cum* take the ablative?—before paging back to check some obscurities in Gifford and Dryden.

I was a bit surprised at Ramsay’s prudishness when dealing with the debilities

of old age. “All pleasures of the flesh have been long forgotten,” he tells us, then skips the next four and a half lines completely, jumping straight to the geezer’s loss of hearing. (Gifford fills the gap: “Or if, through the long night he feebly strives / To raise a flame where not a spark survives . . .” etc.) I thought the Loeb’s were franker than that. Certainly the translated text in the Loeb Suetonius gives unsparing coverage to the depravities of the emperor Tiberius.

Ramsay also declines to be helpful on the punishment for adultery (*mulgis intrat*) in Juvenal’s line 317, which will baffle a reader not familiar with the ancient world’s tolerance of sexual revenge for sexual crimes. It seems odd to use a fish for this purpose; but in Athens they used a radish, which is even odder.

The Tenth Satire is, says Ramsay, “a profoundly depressing and pessimistic poem.” Indeed it is. If Johnson’s closing lines sound Islamic, Juvenal’s are positively Buddhist. Pray to the Roman gods, he tells us, for (in Dryden’s translation)

A soul, that can securely death defy,
And count it nature’s privilege, to die;
Serene and manly, harden’d to sustain
The load of life, and exercis’d in pain:
Guiltless of hate, and proof against
desire.

I wonder if this was even sincere. Did an educated Roman of Juvenal’s age—he was in his fifties, at least, when he wrote the Tenth—even believe in the rather cheesy Roman pantheon, which at that point included four dead emperors, their personal foibles well known to their fellow citizens? Didn’t Gibbon famously tell us that the various modes of worship in ancient Rome “were all considered by the people, as equally true; by the philosopher, as equally false; and by the magistrate, as equally useful”?

It was curious to dive back 19 centuries like this and engage with a mind no different from one’s own pondering human universals: avarice, ambition, old age, power, glory, sex. We know next to nothing about Juvenal, says Ramsay. Even his dates are uncertain by a decade or two (probably about A.D. 60–130). He wrote of futility; his writing somehow survived through dark centuries; a poet picked it up, then another poet, then an editor, then a freelance essayist. Doesn’t all that disprove his main thesis? I wonder what he would have said.

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Helium Diplomacy

At the Royal Opera House in Covent Garden, they're premiering a new ballet about a young French boy who's befriended by a giant helium-filled balloon. Any balletomanes at the U.S. embassy might be forgiven for assuming it to be some hastily concocted metaphor of Euro-American harmony in the Age of Obama: a lithe young Continental prancing around the stage enraptured by his dazzling bag of gas. But, as it happens, *The Red Balloon* is an adaptation of some fey French movie from the Fifties, when a twirling Euro-ninny and his novelty gasbag were the stuff of cinematic whimsy and not the twin pillars on which Western civilization has come to rest.

As is now well-known, President Obama's outreach to the Europeans—talking up the Continent's "leadership" in the world and managing to keep a straight face while doing it—went unreciprocated. When it came to the good war—Afghanistan, the one the anti-Iraq types claim to be in favor of—NATO, a "military" "alliance" of 28 countries, rewarded the impeccable multilateralist with an extra 5,000 troops—or approximately 180 soldiers per nation. And by "soldiers" I don't mean men with guns who fire them at the enemy but "non-combat" forces who man the photocopier back at barracks while the Third Infantry Division and a few brave lads from Britain, Canada, and a couple of other places are up in the hills sticking it to the Taliban. Our allies are happy to stand shoulder to shoulder with us, as long as there are a couple of provinces between their shoulders and ours.

On the other hand, the Obama happy talk seemed to go down well with the North Koreans, who promptly held one of their missile tests, and with members of the piratical community, who seized an American vessel for the first time in a couple of centuries. As the *New York Times* headline writer put it: "Standoff with Pirates Shows U.S. Power Has Limits."

Well, all power has limits. Today, the salient feature of the modern world is the urge to self-limit. The wealthiest jurisdictions on the planet have no "power" as it's conventionally understood—and, indeed, that's the point: They're projecting post-power power, which, being that it's non-existent, has no limits whatsoever. In 2002 the Finnish prime minister, Paavo Lipponen, gave a speech in London saying that "the EU must not develop into a military superpower but must become a great power that will not take up arms at any occasion in order to defend its own interests." Good luck with that. Mr. Lipponen objected to my derision by suggesting I'd missed some subtle nuances of his, but for the life of me I can't see what they are. Aside from anything else, anyone urging a Continent capable of "taking up arms" would be

up against basic Euro-math: You can have massive welfare or a credible military, but not both. Indeed, with Europe's deathbed demography, the former is barely affordable even without the latter.

Shortly after 9/11, Canada's deputy prime minister, John Manley, conceded that his country was dining in the best restaurants without paying its way—or, as he put it, "You can't just sit at the G8 table and then, when the bill comes, go to the washroom." That's the sort of straight talk politicians do when they want to sound as if they're getting real but have no intention of doing so. And so the horrors of 9/11 faded, and Canada and Europe resumed their habit of dining at the NATO table and stampeding for the washroom when the check came. The idea that Continental nations are going to find money to upgrade their militaries anytime soon is delusion: A few years ago, the U.S. spent 3.4 percent of GDP on defense and the other NATO members

spent on average 1.9 percent. The most recent figures show that the U.S. spends 4 percent while the rest of NATO averages 1.7 percent—and it's mostly high wages for unionized armies keeping it even at that level: The Continental country with the highest defense spending is Greece, and that's almost all on personnel. The average age of a Belgian soldier is 40—which at least ensures that the eternal Democratic plaint that we're sending "our children" into harm's way is replaced with the faintly surreal alternative of sending

our middle-aged into harm's way.

Meanwhile, Susan Rice, America's U.N. ambassador, urges Iran to "halt its illicit nuclear program" and "take the steps that would enable it to be a responsible member of the international community." You mean like Belgium or Finland? Lacking the exquisitely refined sensibilities of Mr. Lipponen, the mullahs can't see what's in it for them.

My old colleague at the *Daily Telegraph* in London, the historian Sir John Keegan, likes to say that "without armed forces a state does not exist." The European Union exists only because for half a century they've been under American military protection: Promoted as a counterweight to the U.S. hegemon, the EU in fact exists only because of it.

So what happens when America embraces Euro-sized government? The U.S. can't buck the basic arithmetic any more than Sweden can: A social-democratic America at home presupposes cuts in Pax Americana abroad. Those allies in tough neighborhoods—Israel next to Iran; India next to Pakistan; Japan next to North Korea; Eastern Europe in the shadow of a resurgent Russia—have already noted America's passivity in the face of explicit threats. But eventually Western Europe will, too: at the top table, the big guy is heading for the washroom.

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